



2025:DHC:11525



\$~J

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

%

Judgment pronounced on: 17.12.2025

+

W.P.(C) 17666/2024 and CM APPLs.75209/2024, 10583/2025, 33826/2025, 33840/2025, 33861/2025, 33862/2025, 33952/2025, 33953/2025, 38467/2025

SHARANJEET KAUR

.....Petitioner

Through:

Petitioner in Person.

Mr. Darpan Wadhwa (Sr. Advocate – Amicus Curiae) along with Ms. Rea Bhalla, Ms. Divita Vyas, Advocates.

versus

IDBI BANK LTD

.....Respondents

Through:

Mr. Anirudh Bhakru, Mr. Sidhartha Barua, Mr. Kumar Arnav Singh Deo, Mr. Praful Jindal, Mr. Akash Mohan Srivastava, Advocates.

CORAM:**HON'BLE MR. JUSTICE SACHIN DATTA****JUDGMENT**

1. The present petition has been filed by the petitioner, an ‘aggrieved woman’ within the meaning of section 2(a)¹ of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (hereinafter referred to as ‘POSH Act’), seeking the following prayers:

“A. Issue a writ in the nature of direction/order awarding compensation

¹**Section 2. Definitions.**

(a) “aggrieved woman” means—

(i) in relation to a workplace, a woman, of any age whether employed or not, who alleges to have been subjected to any act of sexual harassment by the respondent;

(ii) in relation to dwelling place or house, a woman of any age who is employed in such a dwelling place or house;



for non-complying with provisions in terms of Section 26 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition & Redressal) Act, 2013

B. Issue a writ in the nature of mandamus/direction holding that the Respondent Bank has violated the Fundamental Rights of the Petitioner under Articles, 14, 15, 19 and 21 of the Constitution of India and awarding compensation;

C. Direct the Respondent to pay all unpaid full back wages of the petitioner with Interest for the period of leaves availed from the Respondent Bank due to mala fide acts of the respondent.

D. Issue directions to the respondent Bank to pay the accrued Bank Lease to the petitioner w.e.f. September 2021 i.e. when the lease was stopped by the Bank till the pendency of the case.

E. Direct Respondent to pay the litigation costs, travelling expenses and advocate's fees as borne by the petitioner till date and further till the final resolution of her case.

F. Award Punitive Damages in favour of petitioner against the Respondent.

G. Direct respondent to pay all unpaid accrued/consequential benefits/emoluments to the petitioner that she is entitled to in the Bank.

H. Issue a writ in the nature of Mandamus / direction holding that the Respondent has violated the law laid down by the Hon'ble the Supreme Court of India in the case of Vishaka and others versus State of Rajasthan and have deliberately flouted the rules prescribed by the Apex Court and failed to implement the guidelines laid down in POSH Act. as law towards protection of women from sexual harassment at workplace and failed to provide grievance procedure for redressal of complaint of the Petitioner against sexual harassment at workplace and by not taking disciplinary action against perpetrators and direct appropriate action in that regard:

I. Issue a writ in the nature of Mandamus / direction holding that the letter of termination of the Petitioner's service dated 02.09.2024 is entirely malicious, retaliatory, bad in law, void, non-est, being in violation of the Fundamental Rights of the Petitioner and against the law laid down by the Hon'ble the Supreme Court;

J. Issue a writ in the nature of Prohibition/Mandamus/direction quashing



the wrongful termination and direct the respondent Bank to reinstate the petitioner and to grant all her accrued/consequential due career promotions.

K. Initiate Contempt proceedings against respondent Bank for willfully disregarding the Hon'ble High Court's directions in writ petition-1841 in the petitioner's case and flouting and/or violating the law laid by the Hon'ble the Supreme Court of India as above;

L. Order the Respondent to pay compensation for all these years of a sum of not less than Rs. 5,00,00,000/- (Rupees Five Crores only) to the Petitioner for the grievous injury and irreparable damage done to her physically, mentally and emotionally by reason of actions complained against the Respondent by way of causing loss of life expectancy, Health loss, loss of Opportunities and Career prospects, loss of Marriage prospects, Mental Trauma, persistent anxiety and depression, stigma and harm to dignity, financial frustration and reputation loss to the petitioner.

M. Pending the hearing and final disposal of this Writ Petition this Hon'ble Court be pleased to direct the Respondent Bank to deposit such sum as may be just, fit and proper by way of security towards payment of compensation as may be awarded;

N. Pending the hearing and final disposal of this Writ Petition the Respondent Bank be ordered to pay to the Petitioner for and towards expenses a sum of Rs.10,00,000/- (Rupees Ten Lakhs only) for prosecuting this Petition;

O. Pass any such other appropriate Writ, order or direction that seems fit under the circumstances in the case."

2. The present petition arises in the backdrop of allegations of sexual harassment which have been the subject matter of a protracted and (as yet) un-concluded inquiry and a letter/ communication dated 02.09.2024, issued by the respondent/ IDBI Bank, whereby (even prior to conclusion of the inquiry process) it was stated that the petitioner is 'deemed to have voluntarily vacated service' under Rule 25(A) of the IDBIL Officer's Rules, 2006, resulting in cessation of her employment. The impugned



letter/communication reads as under:

“Madam,

Voluntary Cessation of Service (VCS)

Please refer to Bank's letter Ref.No.HRD/ERS/2021-2022/1274 dated August 30, 2021 and Ref.No.HRD/ERS/2024-25/2231 dated July 30, 2024 wherein, the first and second notices, respectively, were issued to you by the Appointing Authority (AA) in terms of Rule 25(A) of Chapter V of IDBIL Officers' Service Rules, 2006. You were advised to report at your place of posting at Pitampura Branch, New Delhi (Sol ID-037), within the given timelines as mentioned in aforesaid notices, failing which, it was informed that you shall be deemed to have voluntarily vacated the service of the Bank. The aforesaid second notice was delivered on your address on August 05, 2024. The second notice was also sent on your personal email ID sharanbluerhyme@yahoo.co.in on July 30, 2024.

In complete disregard, you have not reported for duty as per the timelines mentioned in aforesaid first and second notices. In terms of the Circular Ref.No.IDBI Bank/2015-16/382/HR/FIR-71 dated October 28, 2015 regarding voluntary cessation of service of an officer, vide which, amendment has been brought about in Rule 25(A) of Chapter V of IDBIL Officers' Service Rules, 2006, if an officer fails to resume duties within 30 days from the date of second notice issued by the AA, the officer will be deemed to have voluntarily vacated the services in the Bank.

You have not reported for duty at your place of posting within the given period of time stipulated vide aforesaid first and second notices dated August 30, 2021 & July 30, 2024, respectively, and continued to be on prolonged unauthorised absence since October 28, 2020 without giving any explanation which is acceptable to Appointing Authority. Therefore, in furtherance of the aforesaid notices, in terms of Rule 25 (A) of Chapter V of IDBIL Officers' Service Rules, 2006, you are deemed to have voluntarily vacated the services of the Bank effective from September 02, 2024.

You may please contact Resource Team for settlement of your dues, if any on email id- rmhrd@idbi.co.in.

Yours faithfully,

Sd/-

*(Ch. Layanyendu Prasad Parhi)
Chief General Manager
Human Resource Department”*



3. The factual matrix set forth by the petitioner is that the petitioner joined the respondent Bank in the year 2011 and was promoted to the post of Manager (Grade-B) in 2016. In 2018, the petitioner raised allegations of sexual harassment against a senior official, citing instances of sexually coloured remarks and a hostile work environment. However, no remedial or protective measures were undertaken by the respondent in accordance with the mandate of the POSH Act. Instead, the petitioner was subjected to a transfer, without being afforded an opportunity of hearing.

4. A preliminary hearing, in context of the allegations raised by the petitioner was conducted in November 2018 by a committee not constituted in accordance with the provisions of the POSH Act. The said committee closed the petitioner's complaint without any fact-finding exercise. Upon appeal, the matter was taken up by the Internal Complaints Committee (ICC) at the respondent Bank's Head Office in Mumbai, where a settlement was arrived at under Section 10² of the POSH Act, leading to the withdrawal of the complaint. The petitioner contends that despite conciliation, she continued to face a hostile work environment.

5. On 21.06.2019, the petitioner again approached the ICC. Subsequently, the petitioner was transferred to the Delhi Zone, where she

²**10. Conciliation.**—(1) The Internal Committee or, as the case may be, the Local Committee, may, before initiating an inquiry under section 11 and at the request of the aggrieved woman take steps to settle the matter between her and the respondent through conciliation: Provided that no monetary settlement shall be made as a basis of conciliation.

(2) Where settlement has been arrived at under sub-section (1), the Internal Committee or the Local Committee, as the case may be, shall record the settlement so arrived and forward the same to the employer or the District Officer to take action as specified in the recommendation.

(3) The Internal Committee or the Local Committee, as the case may be, shall provide the copies of the settlement as recorded under sub-section (2) to the aggrieved woman and the respondent.

(4) Where a settlement is arrived at under sub-section (1), no further inquiry shall be conducted by the Internal Committee or the Local Committee, as the case may be.



alleges that harassment and victimization persisted. It is contended that the petitioner was denied basic work infrastructure and subjected to repeated transfers. The petitioner's request for reopening the complaint was declined by the ICC on the ground that the matter had already been closed pursuant to conciliation. It is submitted that representations and appeals made to senior authorities failed to yield any redressal. Petitioner's complaint was escalated to Chairman and Managing Director (CMD) of the bank on 04.12.2019. Thereafter, the ICC, vide order dated 16.03.2020, disposed of the petitioner's grievance without conducting a formal inquiry, and further labelled her as a "non-performer."

6. Thereafter, in view of the alleged retaliatory conduct and hostile environment, the petitioner could not attend office during the period commencing October 2020. The petitioner approached this Court by way of W.P(C) 1841/2021, wherein, vide order dated 04.05.2021 it was directed as under :

"1. Mr. Sidhartha Barua, learned counsel for the respondent, states that the counter-affidavit has been filed. At his request, one week's time is granted to bring it on record. Rejoinder may be filed within four weeks thereafter.

2. List on 11.08.2021.

3. Any further action taken by the respondent will abide by the result of the writ petition. In the event any precipitate action is sought to be taken by the respondent, the petitioner may approach the Court by way of an application."

7. Subsequently, order dated 06.10.2021 was passed by this Court in the said proceedings. Vide order dated 06.10.2021, it was directed as under:

"1. Learned counsel for the respondent- IDBI Bank states that the counter affidavit has been filed. He is directed to place the same on record within one week. Rejoinder thereto, if any, may be filed within two weeks thereafter.



2. List on 08.12.2021.
3. The date already fixed i.e. 27.10.2021 stands cancelled.
4. Any action taken by the respondent in the meanwhile will abide by the result of this writ petition.”

8. The respondent proceeded to issue a notice dated 30.08.2021, under the Voluntary Cessation of Services (VCS) Rules, purporting to initiate termination proceedings against the petitioner. The said notice issued by the respondent reads as under:

“First Notice under Voluntary Cessation of Service (VCS)

You joined the services of the Bank on July 25, 2011, as Assistant Manager and were initially posted at Pitampura Branch (Sol Id 037), New Delhi. Subsequently, you were transferred to Retail Asset Centre, Chandigarh (Sol 812), on October 18, 2016, Sector 8-C Branch (Sol 003) on June 25, 2018 and Sector 9-C Branch (Sol 2008), Chandigarh on February 11, 2019. Thereafter, you were transferred, on your request, to Pitampura Branch (Sol 037), New Delhi, which continues to be your present place of posting.

You stopped attending office/branch from October 28, 2020, without prior approval/sanction from competent authority. As a result of which salary was automatically stopped in HRMS on December 01, 2020 in terms of HR guidelines. You were advised to resume duties vide letter dated February 18, 2021. However, you neither resumed duties nor replied to the letter.

Thereafter, Delhi Zonal Office, issued a reminder letter dated April 1, 2021 advising you to resume duties, failing which you shall be liable for appropriate action, including disciplinary action as deemed fit by the Bank. However, you neither resumed duties nor replied to the letter.

It may be mentioned that you are on prolonged absence from duty and despite repeated reminders by the bank you have not reported for duty. Therefore, your attention is invited to the Bank's circular dated October 28, 2015 regarding voluntary cessation of service, in terms of which, if an officer absents himself/ herself for a period of 90 consecutive days or more without prior sanction and does not report for duty despite issuance of notices, he/she will be deemed to have voluntarily vacated his/her service subject to fulfilment of certain conditions as contained in the circular. A copy of the circular is enclosed for your ready reference.

As you are continuously absents from duty without permission since October 28, 2020, despite repeated follow ups through various



letters, the undersigned, exercising the powers of Appointing Authority [in terms of item no. XVIII(A), Sub Clause 3 (iii) of DOP dated March 17, 2020 under operational matter], hereby calls upon you to report for duty at your last place of posting i.e. Pitampura, New Delhi Branch (Sol 037), Delhi Zone and also to furnish the reason for your prolonged absence from duty within 15 days from the date of this notice.

Please note that non-compliance with the instructions contained herein shall be deemed to be violation of the notice of the Appointing Authority as referred in 25(A) under Chapter V- 'Resignation from Service' of IDBIL Officers' Service Rules 2006 and dealt with accordingly and you will make yourself liable for the actions that may be initiated by the Bank, under Rule 25(A) of Chapter V and/or any other applicable provisions of IDBI Bank Ltd. Officers' Service Rules, 2006.

Please acknowledge receipt of this letter on duplicate copy hereof.

Yours faithfully,

Sd/-

(Ugen Tashi)

Chief General Manager
Human Resource”

9. To the said notice, the petitioner responded *vide* communication dated 17.09.2021, which reads as under;

“To

The Appointing Authority and Chief General Manager,
Human Resources Department,
IDBI Tower, WTC Complex,
Cuffe Parade,
Mumbai-40005

**Subject: Reply to First Notice under Voluntary Cessation of Service
HRD/ERS/2021-22/1274 dated 30.08.2021**

Dear Sir,

This has reference to Notice issued under Voluntary Cessation of Service bearing No- RD/ERS/2021-22/1274 dated 30.08.2021. The Appointing Authority, *vide* aforesaid notice, has raised concern regarding undersigned's prolonged absence from duties since October 2020 without any prior approval/ sanction from competent authority. Further, the authority has called upon the undersigned to report for duty at her last place of posting i.e Pitampura (SOL 037), New Delhi Zone failing which she will make herself liable for the actions that may be initiated by the Bank



under Rule 25(A) of Chapter V-
"Resignation from Service" of IDBIL Officers Service Rules 2006 and/or any
other applicable provisions of IDBi Bank Ltd Officers Service Rules, 2006.

In reply to the aforesaid Notice under Voluntary Cessation of Service, the
following is humbly submitted:

At the outset, it is submitted that the undersigned is on leave from office
since October 2020 only under grave compelling circumstances. That the
reasons for availing the said leave have already been submitted to the Bank
in several correspondences and are not being repeated here for the sake of
brevity. That the undersigned was constrained to proceed on leave and has
raised her grievance via WRIT petition No-1841 of 2021 dated 01.02.2021
in the High Court of Delhi IDBI Bank Ltd in the matter raised under the
provisions of Sexual Harassment of Workplace Act, 2013. The subject
matter in it's entirety including the issue of absents from Bank raised in
the notice is presently being heard in the High Court of Delhi and thus, is
subjudice and the Hon'ble Court has already issued notice the Bank in this
Regard.

Upon being exposed to severely hostile environment at the Bank, the
undersigned was left with no option but to avail leave from office till
resolution of the matter and therefore, a C.M Application to the effect u/s
151 of CPC has also been filed in the Hon'ble court for sanction of paid
leave from the office till the disposal of the petition that is also under
judicial consideration. The leave prayed for in the petition is also in line
and spirit with the provisions under Section 12 of the Sexual Harassment at
Workplace Act, 2013.

Further, it is humbly submitted that the letters dated 18.02.2021 and
01.04.2021 as annexed with the notice serving as instructions to
undersigned to report for duties were not received by the undersigned at her
correspondence address. However, one letter dated 09.03.2021 entailing
the same instructions by Regional Head, Delhi Region- was received by
undersigned on the 10.03.2021 and was replied on 15.03.2021 vide email to
MD & CEO- IDBI Bank, General Manager-Regional Head, Delhi Region-I
and General Manager, HRD, Delhi Zone-I.

That any arbitrary adverse action against the undersigned as specified in
the notice is contentious and is requested to be stayed till the final outcome
of the Writ Petition. That the said request is also in conformity with the
Hon'ble Court's directions to the Bank as explicitly mentioned in Para 3 of
Order dated 04.05.2021 as reproduced hereunder:

"3. Any further action taken by the respondent will abide by the result of the
writ petition. In the event any precipitate action is sought to be taken by the
respondent, the petitioner may approach the Court by way of an
application".

In the foregoing, it is requested to the Bank to cooperate and stay the
aforesaid action in the said case in abidance to the directions of the Court.

Thanking You,



2025:DHC:11525



Yours faithfully,
-sd-
Sharanjeet Kaur
E.I.N-118637/ Emp Code-692239”

10. W.P.(C) No. 1841/2021 was disposed of *vide* order dated 09.04.2024 on the ground of availability of an efficacious alternative remedy under Section 18 of the POSH Act. The Letters Patent Appeal filed by the petitioner (as regards the order dated 09.04.2024), was dismissed on 22.05.2024, with liberty to avail the statutory remedy under the POSH Act.

11. Accordingly, on 04.06.2024, the petitioner filed an appeal under Section 18 of the POSH Act before the Appellate Tribunal at Rouse Avenue Courts, New Delhi, assailing the closure of the petitioner’s sexual harassment complaint by the Internal Complaints Committee (ICC).

12. During the pendency of the appeal, the respondent Bank issued a second notice dated 30.07.2024 under VCS Rules (received by the petitioner on 05.08.2024), alleging continued non-resumption of duty and asserting that no statutory appeal had been filed. The VCS notice dated 30.07.2024, reads as under:

“Second Notice under Voluntary Cessation of Service (VCS)”

Please refer to the First Notice under Voluntary Cessation of Service (VCS) bearing Ref.No.HRD/ERS/2021-2022/1274 dated August 30, 2021 issued by the Appointing Authority (AA) in terms of Rule 25(A) of Chapter V of IDBIL Officers Service Rules, 2006. You were advised to report at your place of posting at Pitampura Branch (Sol ID-037), New Delhi within 15 days from the date of aforesaid notice, as you have been absenting from duty without prior permission from the Competent Authority since October 28, 2020. The Bank had dispatched the said notice on your address available in Bank's record.

You, in response to the notice vide letter dated September 17, 2021 informed that you have already filed Writ petition No.1841 of 2021 dated 01.02.2021 in the High Court of Delhi against the Bank in the matter raised under the provision of Sexual Harassment at Work place



Act, 2013. The subject matter including the concern of absents from Bank as raised in the notice is presently being heard in the High Court of Delhi and thus is subjudice and the Hon'ble Court has already issued notice to the Bank in this regard.

In the meantime, it was learnt that you had filed civil miscellaneous application for early hearing of the CM Application No.5337/2021 and 5338/2021 and also filed a miscellaneous petition seeking an order for stay of the first notice issued under Voluntary Cessation of Service dated August 30, 2021. High Court vide order dated May 04, 2021 passed in the said Civil Miscellaneous Application Nos.5337-5339 of 2021 in Writ Petition ("WP") No.1841 of 2021, directed that "any further action taken by the Respondents will abide by the result of the WP. In the event any precipitate action is sought to be taken by the Respondent, the Petitioner may approach the Court by way of an application." In view of direction issued by High Court, further action under VCS was kept in abeyance.

However, it is learnt that the High Court, vide order dated April 09, 2024, has now disposed off the aforesaid WP along with pending applications, on the ground of availability of alternative efficacious remedy of statutory Appeal under section 18 of POSH Act, 2013. In view of the disposal of WP made by the High Court it is considered that the aforesaid interim order dated May 04, 2021 granted by the HC also stands vacated. Subsequently, it was learnt that aggrieved by the aforesaid order dated April 09, 2024 passed by HC, you had filed the Petition Patent Appeal No.417 of 2024 against the Bank ("LPA") before the HC. Further, High Court vide Judgment dated May 22, 2024 dismissed LPA holding that the LPA is not maintainable and granted you liberty to file an Appeal under section 18 of POSH Act within two weeks from the date of said Judgment (i.e.22.05.2024) and if so filed by you, the same shall not be dismissed on the ground of limitation and the Appeal to be disposed off in accordance with law, expeditiously as possible, preferably within six months.

You have neither resumed for duty till date nor communicated any likely date of resumption. Further as confirmed by Delhi Zonal Office they have not received any statutory Appeal filed by you thereafter, till date.

As you did not resume for duty within the stipulated timelines nor submitted satisfactory explanation for your absence, the undersigned as your Appointing Authority [in terms of item no. XIX (A), Sub Clause 3 (iii) of DOP dated May 03, 2023 under operational matter], hereby once again call upon you to report for duty at your place of posting at Pitampura Branch, New Delhi (Sol ID-037) within 30 days from the date of this notice, failing which you shall be deemed to have voluntarily vacated the services of the Bank. Please take note that this communication is being issued to you in terms of Rule 25(A) of Chapter V of IDBIL



2025:DHC:11525



Officers' Service Rules, 2006.

Please acknowledge receipt of this letter on duplicate copy hereof.

Yours faithfully,

Sd/-

(Ch. Labanyendu Prasad Parhi)

Chief General Manager Human Resource Department"

13. The petitioner furnished a reply to the said VCS notice on 26.08.2024, requesting the respondent to refrain from taking any precipitate action, particularly in view of the pendency of appeal before the Tribunal. The said reply reads as under:

"26.08.2024

*Human Resource Department,
IDBI Tower,
WTC Complex,
Cuffe Parade,
Mumbai-400005*

Subject: Reply to Second notice under Voluntary Cessation of Service/HRD/ERS/2024-25/2231 dated 30.07.2024

Dear Sir,

This has reference to Notice issued under Voluntary Cessation of Service bearing No- HRD/ERS/2024-25/2231 dated 30.07.2024 received by undersigned on 05th August 2024. The Chief General Manager, vide aforesaid notice, has raised concern regarding undersigned's prolonged absence from duties since October 2020. The Authority has mentioned in the notice that consequent to the directions by the Delhi High Court vide order dated May 04, 2021 in the Writ Petition No-1841/2021, the action under first VCS Notice dated August 2021 was kept in abeyance by the Bank.

Further, the Authority expressed that subsequent to the disposal of the aforesaid Writ Petition on April 9th, 2024 and LPA in May 2024, no statutory appeal as directed by the Court has been filed by the undersigned till date in pursuance to the grievance against IDBI.

Therefore, the Authority has called upon the undersigned to report for duty at her last place of posting i.e Pitampura (SOL 037), New Delhi Zone within 1 month of receiving this notice failing which she will make



herself liable for the actions that may be initiated by the Bank under Rule 25(A) of Chapter V- 'Resignation from Service' of IDBIL. Officers' Service Rules 2006 and/or any other applicable provisions of IDBI Bank Ltd Officers' Service Rules, 2006.

In reply to the aforesaid Second Notice under Voluntary Cessation of Service, the following is humbly submitted:

At the outset, it is submitted that the undersigned is on leave from office since October 2020 only under grave compelling circumstances. That the reasons for availing the said leave have already been submitted to the Bank in several correspondences and are not being repeated here for the sake of brevity. Upon being exposed to severely hostile environment at the Bank, the undersigned was left with no option but to proceed on leave from office till resolution of the matter.

That the grievance against the Bank was raised by undersigned vide WRIT petition No-1841 of 2021 dated 01.02.2021 in the High Court of Delhi in the matter raised under the provisions of Sexual Harassment of Workplace Act, 2013(hereinafter referred to as POSH Act). While the matter was subjudice, the Bank issued First Notice to undersigned under Voluntary Cessation of Services. Therefore, the High Court issued directions to the Bank as explicitly mentioned in Para 3 of Order dated 04.05.2021 as reproduced hereunder:

"3. Any further action taken by the respondent will abide by the result of the writ petition. In the event any precipitate action is sought to be taken by the respondent, the petitioner may approach the Court by way of an application."

The said Writ Petition was disposed by the Delhi High Court on April 09th, 2024 on the ground of availability of alternate remedy of Statutory Appeal u/s 18 of the POSH Act in the matter. The Letters Patent Appeal was also disposed off on the same ground.

It is submitted that the Statutory Appeal in pursuance to the grievance and directions of Delhi High Court has been filed in Delhi by the undersigned on 04th June, 2024 vide Case No-RCA DJ 03/2024 IN Rouse Avenue Court, Delhi. The Appellate Court has issued summons to appear in person to the Bank's Authority (MD and CEO, IDBI Bank) in the matter on 24th August 2024. That the Bank Official alongwith Counsel have also been present in the hearings of the Court 01.08.2024, 13.08.2024 and 17.08.2024. Therefore, it is wrongly stated in the VCS Notice dated 30th August 2024 that No appeal has till date been filed in the matter by undersigned and no intimation is available with the Bank of the same.



2025:DHC:11525



It is requested that the subject matter in it's entirety is still under judicial consideration till date vide Appeal and thus any precipitate action being proposed to be taken by the Bank is bad in law and spirit and must be taken back and such action gravely defeats the very purpose of POSH Act.

In the foregoing, it is humbly requested to the Bank to withdraw the aforesaid adverse action against the undersigned.

*Thanking You,
Sd/-
Yours faithfully
Sharanjeet Kaur”*

14. The petitioner also filed an application before the Appellate Tribunal on 28.08.2024, seeking a stay against the VCS notice dated 30.07.2024. Nevertheless, even while the appeal remained pending, the respondent Bank proceeded to issue the impugned termination letter dated 02.09.2024 (received by the petitioner on 10.09.2024). Seeking urgent intervention, the petitioner filed an application dated 17.09.2024 before the Tribunal. The Tribunal heard the matter on 19.10.2024 and, while refraining from adjudicating the termination, granted liberty to the petitioner to approach the appropriate forum for redressal of grievances arising therefrom.

15. It is emphasized that *vide* order dated 21.09.2024, the Tribunal imposed costs of Rs. 50,000/- on the respondent Bank. The said order, enclosed with the present petition as Annexure P/14, reads as under:

“21.09.2024

Present: Appellant in person.

*Sh. Ananya Singhal, Proxy Counsel for Sh. Rakesh Mukhija,
Ld.Counsel for respondent. (Through VC).*

Vide separate detailed order, the application moved by respondent qua territorial jurisdiction of present court has been dismissed being without any merits with cost of Rs. 50,000/- payable by respondent bank out of which a sum of Rs. 25,000/-



2025:DHC:11525



shall be paid to appellant and remaining sum of Rs.25,000/- shall be deposited in DLSA Fund, Central-District, Tiz Hazari, Delhi. Receipts of pyament of cost be placed on file by respondent.

Now to come up for reply and arguments on the misc. Pending applications of the appellant on 03.10.2024.

(MOHINDER VIRAT)

POIT-01, Rouse Avenue Court

New Delhi/21.09.2024”

16. On 09.12.2024, the Tribunal adjudicated the petitioner’s appeal and set aside the proceedings conducted by the ICC, holding the said proceedings to be violative of the principles of natural justice and amounting to abuse of process. Liberty was granted to the petitioner to pursue remaining reliefs before the competent forum. Relevant portion of the judgment rendered by the Appellate Tribunal is reproduced as under:

“31. It is observed that order dated 16.03.2020 has been passed by ICC without following due process of law as her complaint was rejected by ICC without affording any personal hearing and no proper proceedings were conducted by ICC as per prescribed procedure under POSH Act and further no witnesses were examined/cross-examined by ICC during its proceedings.

xxx

xxxxxx

34. The perusal of record also shows that order passed by ICC is not based on proper appreciation of facts of the case and is a non-speaking order against the principles of natural justice. Rather, there was miscarriage of justice with no trial or any proper fact finding inquiry into the case with being vitiated on failure of principles of natural justice.

35. It is also observed that the Respondent /Employer violated the provisions of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act as the Employer has not constituted ICC earlier. It is only after the Appellant made the complaint and approached the higher authorities, the Respondent constituted the ICC.

36. It is also observed that deposition of witnesses appeared before



ICC, if any have not at all been discussed in the report and it is not made out as to how the ICC unanimously decided not to accept the complaint of complainant on record. It is further observed that findings of Inquiry Committee is without any basis and reason and order passed by Inquiry committee is non-speaking order. Rather, the report of Inquiry Committee is not conclusive and suffers from ambiguity and infirmity. Furthermore, the right to cross examination is an inherent aspect of principles of natural justice. The same cannot be denied except in exceptional circumstances.

37. In view of the facts and circumstances as discussed above, this Tribunal is of the view that the impugned order dated 16.03.2020 is illegal as being made in violation of principles of natural justice. Accordingly, the same is set aside as this Tribunal finds illegality and infirmity in the observations made by ICC.

38. So far as relief sought in prayer No. 2 to 10 of prayer clause of appeal is concerned, same are not maintainable under the POSH Act being not falling within the parameters of Section 18 of the Act as this Tribunal is having limited powers and is required to see whether proceedings conducted by ICC were as per law or not following due process and principles of natural justice. Hence, appellant is at liberty to press the relief sought in paras no. 2 to 10 of prayer clause before appropriate authority as per law.

This observation of the court totally rules out the apprehension of the respondent that by way of this appeal, complainant is seeking various service benefits unduly from respondent.

39. Accordingly, in these circumstances, the present appeal is partly allowed and the findings of ICC are set aside. Further respondent bank is directed to comply with the provisions of Section 4 of the POSH Act in its letter and spirit within a period of one month from the date of this judgment. File be consigned to Records as per rules after due compliance.”

17. It is in this conspectus that the petitioner has approached this Court seeking directions, including compensation, reinstatement and other consequential reliefs as detailed in the prayer clause of the present petition.

SUBMISSIONS ON BEHALF OF THE PETITIONER

18. It is the case of the petitioner that the impugned termination letter



dated 02.09.2024, issued during the pendency of judicial proceedings under Section 18 of the POSH Act, is *ex facie* retaliatory and constitutes a direct reprisal against the petitioner for raising complaints of sexual harassment at workplace. It is submitted that such termination, effected despite subsisting interim protection (granted in W.P.(C) 1841/2021), is arbitrary, *mala fide*, and violative of the principles of natural justice.

19. It is further submitted that the petitioner was constrained to proceed on leave from October 2020, owing to the persistent hostile work environment and continued harassment pursuant to her complaints. The respondent Bank failed to take remedial or protective measures as mandated under the POSH Act, thereby adding to the petitioner's distress and compelling her to disengage from active service.

20. The petitioner categorically denies the assertion contained in the VCS notice dated 30.07.2024 wherein the respondent alleged that that no statutory appeal had been filed. It is submitted that the said inference is factually incorrect. The petitioner had duly instituted an appeal under Section 18 of the POSH Act on 04.06.2024 before the Appellate Tribunal. Furthermore, summons was issued to the respondent Bank by the Tribunal on 24.07.2024, thereby establishing the pendency of proceedings. A copy of the said summons is annexed as Annexure P/7 to the present petition.

SUBMISSIONS ON BEHALF OF THE AMICUS CURIAE

21. Mr. Darpan Wadhwa, learned *Amicus Curiae* submits that the timing of the petitioner's termination is unjustified and raises serious concerns, particularly in light of the following circumstances:

- (i) the petitioner's complaint under the POSH Act was pending



adjudication at the relevant time; and

(ii) the Tribunal, vide its judgment dated 09.12.2024, categorically held that the closure of the petitioner's complaint by the ICC on 16.03.2020 was not in accordance with the provisions of the POSH Act and amounted to a violation of the principles of natural justice.

22. It is further submitted that under Section 11(4) read with Section 12 of the POSH Act, the ICC is required to complete its inquiry within 90 days and is empowered to recommend that the complainant be granted leave for a period of up to three months. The legislative intent behind such provision is to ensure the complainant's safety and protection from further harassment or retaliatory conduct during the pendency of proceedings. In the present case, given that the petitioner's complaint was pending and has now been held to have been improperly closed, she ought to be deemed to be on protective leave. Consequently, the petitioner cannot be denied wages or continuity of service. The respondent Bank, having failed to conduct the inquiry in accordance with law, must bear the consequences of its procedural lapses.

23. Attention is drawn to the observations made by this Court ***Ruchika Singh Chhabra v. M/s. Air France India and Anr.*** 2018 SCC OnLine Del 9340, wherein, while dealing with the issue of improper ICC proceedings, it was held as under:

“30. Having regard to the conspectus of circumstances in the present case, apart from the issues discussed hereinabove, this Court also views with concern, the procedure adopted by the ICC in the present case. In all, the Committee appears to have not conducted the proceedings according to principles of natural justice. It is contended by the appellant that no charges were framed by the ICC, that independent witnesses admitted to having read the evidence of the accused and yet, they were not disqualified, the Appellant was forced to cross examine and be cross examined by the accused and there was apparent unresponsiveness on



the part of Respondent no. 1 in dealing with the complaint of the Appellant. The no-cause sudden termination of employment of the Appellant also raises concerns regarding there being bias in the proceedings of the ICC. Apart from non-compliance with employers in the composition, and the alleged bias by members of the ICC, that body did not take steps to lend confidence or assurance to the Appellant as she repeatedly raised concerns of not feeling comfortable in the manner in which the proceedings were being conducted and also expressed her discomfort in being around the accused, which was so vital for the fairness in the enquiry, and mandated by Vishaka (supra). This court is of the opinion, that although allegations about the conduct of inquiry are serious and can have the effect of invalidating the process altogether, it would not be appropriate to return them as findings, given that what was addressed during the hearings, were the question of jurisdiction and the validity of appointment of Mr. Dias.”

24. It is further submitted that the impugned termination letter erroneously records that the petitioner had been on “prolonged unauthorised absence since October 28, 2020 without giving any explanation which is acceptable to Appointing Authority.” The said termination, purportedly under Rule 25(A) of Chapter V of the IDBIL Officers’ Service Rules, 2006, deems the petitioner to have voluntarily vacated service. However, it is clearly established that the petitioner furnished detailed replies to both VCS notices dated 30.08.2021 and 30.07.2024, citing the pendency of W.P.(C) No. 1841/2021 and the statutory appeal before the Appellate Tribunal, respectively. The petitioner also highlighted the continuing harassment and hostile work environment as the reason for her absence. These explanations were duly placed on record and cannot be deemed to be unsatisfactory, without due consideration.

SUBMISSIONS ON BEHALF OF THE RESPONDENT

25. The respondent Bank opposes the maintainability of the present



petition on the ground of availability of an alternative remedy prescribed under Clause 25 (A), Chapter V of the IDBI Ltd. Officer's Rules, 2006.

26. It is submitted that the decision to invoke Rule 25(A) of the Voluntary Cessation of Service Rules, and deem the petitioner to have voluntarily vacated service, was based solely on the petitioner's own continued unauthorised absence commencing 28.10.2020. The petitioner failed to obtain prior approval or furnish satisfactory justification for her absence, despite repeated communications from the respondent Bank directing her to resume duty. During this period, the petitioner is alleged to have pursued a full-time LL.B. program and prepared for civil services examinations, in contravention of the applicable service guidelines. The respondent asserts that such conduct constitutes voluntary cessation of service under the relevant rules.

27. The respondent contends that the petitioner's allegations of sexual harassment bear no causal nexus with her prolonged absence from duty. It is submitted that the petitioner has a prior record of unauthorized absences, which had earlier resulted in disciplinary proceedings and imposition of a minor penalty under Rule 4(1)(b) of the IDBI Bank Ltd. Officers' (Discipline & Appeal) Rules, 2006.

28. It is further submitted that the sexual harassment complaint dated 15.12.2018 was withdrawn unconditionally by the petitioner, resulting in closure of proceedings under Section 10 of the POSH Act. Subsequent complaints were found to lack specific allegations warranting inquiry, and the ICC disposed of the matter *vide* order dated 16.03.2020.

29. Following the petitioner's continued absence post-October 2020, the respondent issued VCS notices dated 30.08.2021 and 30.07.2024. Although



the petitioner furnished replies, she failed to resume duty. Consequently, the respondent issued final VCS notice dated 02.09.2024, deeming the petitioner to have voluntarily vacated service under Rule 25(A) of Chapter V of IDBIL Officer's Service Rules, 2006.

30. The respondent submits that the Tribunal has neither made any finding of sexual harassment nor granted any relief to the petitioner. Nevertheless, the respondent directed the ICC to re-adjudicate the matter. The petitioner was duly informed of the re-adjudication process via emails dated 01.02.2025, 11.02.2025, and 18.02.2025, but failed to participate and instead filed CM Application No. 10583/2025 seeking to set aside the ICC's notices.

31. It is submitted that compensation under the POSH Act is permissible only upon a proven case of sexual harassment, which is absent in the present matter. The respondent asserts that the petitioner's termination was lawful, procedurally sound and necessitated by the petitioner's continued unauthorised absence.

32. The respondent further alleges that the petitioner is engaged in forum shopping with the intent to derive undue advantage and circumvent the disciplinary framework applicable to her service.

ANALYSIS AND CONCLUSION

33. Respective counsel for the parties including the *Amicus Curiae* have been heard at extensive length.

34. At the outset, it is pertinent to note that the petitioner's grievance, that her complaint/s of sexual harassment at the workplace were not duly inquired into, stands vindicated by the judgment dated 09.12.2024 rendered



by the Appellate Tribunal. In the said judgement, the Tribunal categorically held that the order dated 16.03.2020, whereby the petitioner's complaint was closed, was passed by the ICC without adherence to the due process of law.

35. The Tribunal further observed that the order dated 16.03.2020 was not founded upon a proper appreciation of the facts of the case, and amounted to a non-speaking order, thereby violating the principles of natural justice. A clear finding has been rendered that there was a miscarriage of justice inasmuch as no proper fact-finding inquiry was undertaken by the ICC to examine the allegations raised by the petitioner. It has also been specifically recorded that the allegations made by the respondent-management against the petitioner with respect to her work performance and productivity were untenable. The relevant finding of the Appellate Tribunal are once again reproduced hereunder:-

"26. One of the most important duties of an employer is to constitute ICC and display at conspicuous places the order constituting the same. Proper constitution of the ICC is sine qua non for fair and proper enquiry proceedings to ensure justice to all the stakeholders. In view of the discussions aforesaid, this Tribunal is of the view that the constitution of the ICC was not in accordance with Section 4 of the POSH Act and the Respondent bank failed in its duty as an employer to set up permanent ICC at every administrative units meaning thereby the respondent should have set up a permanent ICC at its Delhi office and complaint of appellant should have been adjudicated upon by ICC at Delhi instead of Mumbai and respondent has failed to explain as to why ICC at Mumbai was constituted.

27. Further POSH Act describes the composition and characteristics of the ICC and under the head of "Venue of Internal Complaint Committee" it is specifically mentioned that "The Internal Complaint Committee should be located at all workplace. Where the offices or administrative units of the workplace are located at different places or divisional or subdivisional level, the Internal Committee shall be located at all administrative units or offices". However, respondent has totally ignored the above parameters.



xxx xxx xxx

31. *It is observed that order dated 16.03.2020 has been passed by ICC without following due process of law as her complaint was rejected by ICC without affording any personal hearing and no proper proceedings were conducted by ICC as per prescribed procedure under POSH Act and further no witnesses were examined/cross-examined by ICC during its proceedings.*

32. *Here it is also important to note that management has alleged that appellant was giving dismal work performance and low productivity levels during her service tenure and she was tagged as non-performer by the bank, however, this arguments seems to be devoid of any merits as it has come on record that appellant secured very good rating with 84% marks and respondent /bank has not given any adverse remarks in her annual performance appraisal done by bank itself for relevant period i.e. 2018-19. So this argument of respondent bank does not hold any water.*

33. *Further the conjoint reading of Section 10(1), 10 (4) and proviso to Section 11 (1) of the POSH Act, it can be squarely inferred that the conciliation that was reached on the complaint of appellant in February 2019 was before initiation of fact finding inquiry in accordance with Section 10 (1) of the Act. It has duly come on record that since the conciliation was reached, no inquiry was made in the complaint in consonance with Section 10 (4) of the POSH Act. Further proviso to section 11(1) mandates that ICC shall proceed to make an inquiry into the complaint, but in the instance case, despite repeated requests by appellant to reopen her complaint for inquiry under proviso to Section 11(1) owing to continuous incidents of harassment at the behest of main perpetrator, ICC refused to reopen the complaint for any fact finding inquiry in complete disregard to statute.*

34. *The perusal of record also shows that order passed by ICC is not based on proper appreciation of facts of the case and is a non-speaking order against the principles of natural justice. Rather, there was miscarriage of justice with no trial or any proper fact finding inquiry into the case with being vitiated on failure of principles of natural justice.*

35. *It is also observed that the Respondent /Employer violated the provisions of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act as the Employer has not constituted ICC earlier. It is only after the Appellant made the complaint and approached the higher authorities, the Respondent constituted the ICC.*



36. *It is also observed that deposition of witnesses appeared before ICC, if any have not at all been discussed in the report and it is not made out as to how the ICC unanimously decided not to accept the complaint of complainant on record. It is further observed that findings of Inquiry Committee is without any basis and reason and order passed by Inquiry committee is non-speaking order. Rather, the report of Inquiry Committee is not conclusive and suffers from ambiguity and infirmity. Furthermore, the right to cross examination is an inherent aspect of principles of natural justice. The same cannot be denied except in exceptional circumstances.*

37. *In view of the facts and circumstances as discussed above, this Tribunal is of the view that the impugned order dated 16.03.2020 is illegal as being made in violation of principles of natural justice. Accordingly, the same is set aside as this Tribunal finds illegality and infirmity in the observations made by ICC.”*

36. In view of the findings rendered by the Appellate Tribunal, it is evident that redressal in the form of a fair inquiry, as contemplated under the POSH Act, has eluded the petitioner since 2018. The denial of a fair inquiry, (irrespective of whether the allegations levelled by the petitioner are ultimately established) constitutes a grave infraction of the petitioner's rights.

37. The gravity of the matter has been exacerbated by the fact that the respondent sought to terminate the petitioner's employment even before the logical culmination of the statutory process under the POSH Act.

38. In the facts and circumstances of the present case, the termination of the petitioner's employment is inextricably connected with the allegations of sexual harassment raised by the petitioner inasmuch as the reason/s cited by the petitioner for not being able to attend office, was the hostile/vitiated atmosphere at the workplace, on account of sexual harassment.

39. The POSH Act is a special, beneficial legislation enacted to secure a



woman's constitutional right to equality, dignity and safe working environment. The inquiry procedures established under the said enactment are sacrosanct and demand strict, unwavering adherence. The ICC, being a statutory adjudicatory body, is entitled to full institutional independence, and its proceedings ought not to be allowed to be scuttled through indirect means.

40. In the facts of the present case, till conclusion of the proceedings before the ICC, it was incongruous for the employer to initiate any service action against the complainant, even if the action was ostensibly founded on the allegations of violations of Service Rules unrelated to the sexual harassment complaint.

41. Such action, irrespective of its formal description, operates in substance as retaliation. The true test is not the label of the action but its impact – whether it burdens, deters or has a chilling impact on the complainant's ability to pursue the statutory remedy under the POSH Act.

42. While Section 12 of the POSH Act expressly empowers the ICC to recommend protective measures, the statute implicitly prohibits retaliatory action against the complainant. Retaliation inherently includes disciplinary proceedings, denial of benefits or any adverse service consequence sought to be inflicted prior to the conclusion of ICC proceedings.

43. Permitting such action would render the remedy under the POSH Act onerous and illusory by (a) imposing a financial burden on the complainant; (b) creating institutional pressure; and (c) deterring free participation in the inquiry process.

44. Service Rules are subordinate to the POSH Act and cannot be invoked in a manner that defeats or dilutes the object of the special enactment. What



cannot be done directly *viz.* victimizing a POSH complainant, cannot be permitted to be achieved indirectly under the guise of enforcing service discipline.

45. Initiation of service action during the pendency of the ICC proceedings gives rise to a strong presumption of *mala fides* and colourable exercise of power. In the present case, the timing and context of the action sought to be taken against the petitioner, clearly render the same suspect and untenable. It contaminates the fact-finding process which is itself sacrosanct.

46. Crucially, the question of whether the petitioner's allegation/s are genuine or not is immaterial to the legality of the termination. What is material is that the termination was effected in the midst of unresolved statutory proceedings.

47. In view of the above, the objection raised by the respondent to the maintainability of the present petition, *inter-alia*, on the ground of availability of alternative remedy prescribed under Clause 25 (A), Chapter V of the IDBI Ltd. Officers' Service Rules, 2006 ("IDBI Service Rules") governing Voluntary Cessation of Service ("VCS"), to which, according to the respondent, the petitioner should be relegated, is unmerited. It is untenable to regard the controversy in the present case as falling purely within the confines of the concerned 'Service Rules'.

48. The controversy relates to discharge by the respondent of its public law and statutory obligations, which have emanated from the dicta laid down by the Supreme Court in *Vishaka Vs. State of Rajasthan* (1997) 6 SCC 241. In the said case, the Supreme Court laid down guidelines, in the absence of a legislation, for the enforcement of the right to gender equality of working women, in a class action petition that was filed to enforce



fundamental rights of working women and to prevent sexual harassment of women in workplace. The guidelines impose an obligation upon both public and private employers not to violate the fundamental rights guaranteed to working women under Article 14, 15, 19(1)(g) and 21.

49. In **Medha Kotwal Lele vs. Union of India** (2013) 1 SCC 297, this Supreme Court observed as under:

“44.The State functionaries and private and public sector undertakings/organisations/bodies/institutions, etc. shall put in place sufficient mechanism to ensure full implementation of Vishaka (supra) guidelines.”

50. The obligations/rights created under POSH Act are in pursuance of the **Vishaka** (supra) guidelines.

51. In several other judgments³ as well, the Supreme Court has emphasised that jurisdiction under Article 226 of the Constitution of India can be invoked to enforce public law obligations.

52. The legal position is also well settled that the jurisdiction of this Court under Article 226 is not ousted in view of alternative remedies, especially in cases involving infringement of fundamental rights or breach of the principles of natural justice, as held by the Supreme Court in **Whirlpool Corporation v. Registrar of Trademarks**⁴, (1998) 8 SCC 1.

53. As per the VCS Rules, relied upon by the respondent, where a final

³**Andi Mukta Sadguru Shree Muktajee Vandas Swami Suvarna Jayanti Mahotsav Smarak Trust v. V.R. Rudani**, (1989) 2 SCC 691; **Praga Tools Corpn. v. C.A. Imanual**, (1969) 1 SCC 585; **Kaushal Kishor v. State of U.P.**, (2023) 4 SCC 1.

⁴15. Under Article 226 of the Constitution, the High Court, having regard to the facts of the case, has a discretion to entertain or not to entertain a writ petition. But the High Court has imposed upon itself certain restrictions one of which is that if an effective and efficacious remedy is available, the High Court would not normally exercise its jurisdiction. But the alternative remedy has been consistently held by this Court not to operate as a bar in at least three contingencies, namely, where the writ petition has been filed for the enforcement of any of the Fundamental Rights or where there has been a violation of the principle of natural justice or where the order or proceedings are wholly without jurisdiction or the vires of an Act is challenged. There is a plethora of case-law on this point but to cut down this circle of forensic whirlpool, we would rely on some old decisions of the evolutionary era of the constitutional law as they still hold the field.



order of cessation of service is passed by the Appointing Authority, the concerned officer is entitled to file an appeal before the Appellate Authority within a period of one year of the order recording voluntary vacation of service. In the facts of the present case, however, it is unreasonable for the respondent to expect the petitioner to submit herself to the in-house appellate mechanism, particularly, in view of the grave allegations raised by the petitioner, as regards hostility and retaliatory conduct at the workplace.

54. The petitioner has consistently articulated these concerns in communications addressed to the respondent. It is noticed that as far back as on 04.12.2019,(even prior to the issuance of first VCS notice), the petitioner addressed an e-mail to the senior officers of the respondent Bank seeking urgent intervention on account of alleged undue humiliation and harassment meted out to the petitioner. In the said communication, it was *inter alia* pointed out that the petitioner was sought to be unreasonably transferred from the Pitampura Branch with a view to perpetuate harassment, and that upon such transfer she was not even allotted a desk, computer system, or seating arrangement in the concerned branch. The relevant extracts of said communication are reproduced as under:

“ I requested for deferring my relieving from the said branch on the grounds that the orders were impugned and were issued in a wrongful manner. A new asset officer was posted to the branch and I realized that due support was given to her and with her joining the branch, Shri. Dhanni alongwith her did the renewals. Upon her joining, I was ousted from the said desk and have not been allotted any desk or computer system or even a seat till date. I was told by the Branch Head that since the new asset officer has joined. I have to leave the seat and have not been assigned any new one till date. Moreover, all the files are concealed from me stating that I am not a part of the branch. The staff are told often by the Branch Head and the SOM to avoid talking to me as has been clearly conveyed and instructed by Smt. Neeta Anand and the Regional Office staff stating the reason that I have a bad image. If any of the



staff talked to me, they were negatively targeted too and indirectly told about the repercussions they can face if they talked to me. There have been inordinate delays and troubles in getting approvals from my supervisor in applications only to make things quite worrisome. The way I am mocked and targeted almost every single day has made things quite insufferable for me and it is becoming very difficult to work in such environment especially when I am not at fault anywhere but being targeted by few of the officials with Shri Sujeet Kumar being the prime accused.”

55. Similarly, in numerous subsequent communications, including replies to the VCS Notices, the petitioner reiterated that she was subjected to a severely hostile environment at the workplace.

56. In the circumstances, the prescribed alternate remedy cannot be regarded as efficacious, being inextricably intertwined with the petitioner’s grievance that her complaints of sexual harassment at the workplace were not duly inquired into. Therefore, the said alternate remedy cannot operate to oust the jurisdiction of this Court.

57. With regard to the termination of the petitioner’s employment, it has been submitted by the respondent that the cessation of the petitioner’s services was effected by invoking Rule 25(A) of Chapter V of the IDBIL Officers’ Service Rules, 2006. The said rules contemplate as under :

“Clause 25(A)- Voluntary Cessation of Service

- *Where an officer who has not submitted an application for leave or where an officer having submitted his application was refused sanction of leave, absents himself/ herself for a period of 90 or more consecutive days or overstays the sanctioned leave by 90 or more consecutive days, Bank may at any time thereafter give a notice to the officer at his/ her last known address as available with the Bank calling upon him/ her to report for duty within 15 days of date of notice (the first notice).*
- *Unless the officer reports for duty or given as explanation for his/ her absence within 15 days from the date of notice, satisfying the Appointing Authority inter-alia, that he/ she has not reported for duties*



for the reasons beyond the control of the employee on account of physical incapacitation in the nature of preventing the officer from discharging ordinary banking duties or other such reasons acceptable to the Appointing Authority, the officer shall be given a second notice to report for duty within 30 days from the date of second notice by the Appointing Authority, failing which the officer will be deemed to have voluntarily vacated his/ her service on the expiry of the said notice and advised accordingly by registered post.

- *In the event of the officer submitting an explanation acceptable to the Appointing Authority, within 15 days of the first notice, he/ she shall be permitted to report for work thereafter within 30 days from the date of expiry of the aforesaid notice without prejudice to the Bank's right to take any action under the law or Service/ Conduct Rules.*
- *If the officer fails to report for duty within aforesaid 30 days granted to report, he/ she shall be given a final notice to report within 15 days, failing which, the officer by an order of the Appointing Authority, shall be deemed to have voluntarily vacated his/ her service on the expiry of the said notice and advised accordingly by registered post.*
- *If an officer after reporting for duty in response to the first/ second notice given after 90 days of absence or within 30 days granted to him/ her for reporting to work on his/ her submitting a satisfactory reply to the first notice, again absents himself/ herself for the second time without submitting any application and obtaining sanction thereof, a notice shall be given after 15 days of such absence giving him/ her further 15 days time to report for duty.*
- *If the officer fails to report for work or reports and again absents himself/ herself for a third time within a period of 15 days without prior sanction, he/ she shall, by an order of the Appointing Authority, be deemed to have voluntarily vacated his/ her service on the expiry of the said notice and advised accordingly by registered post.*
- *In such cases the officer shall also be liable to pay to the Bank such notice monies as are payable in case of resignation as if/ she has been permitted to pay emoluments in lieu of notice.*
- *Provided, however, that an officer may appeal to the Appellate Authority within a period of one year from the date of order recording voluntary vacation under the aforesaid rule. The Appellate Authority, an authority one stage higher than the Appointing Authority, shall consider such appeal to treat the said order as rescinded if it is satisfied that the officer was prevented by any sickness incapacitating*



him/ her from reporting for duty within the prescribed time or for any other sufficient cause, and pass such orders as it may deem fit in the circumstances of the case”.

58. The first VCS notice in terms of the aforesaid rules was issued on 30.08.2021. The petitioner responded to the same *vide* communication dated 17.09.2021. A perusal of the said reply to the first VCS notice, furnished by the petitioner reveals that the petitioner clearly stated the fact that she was compelled to avail leave due to an extremely hostile workplace environment. Evidently, the petitioner also drew attention to the pendency of the petition filed before this Court, being W.P.(C) 1841/2021 (whereby, the petitioner assailed the order dated 16.03.2020 passed by the ICC) and the order dated 04.05.2021, passed in the said petition, which afforded certain protection to the petitioner. The petitioner specifically requested that no adverse action be taken during the pendency of judicial proceedings.

59. Apparently, Rule 25(A) of Chapter V of the IDBI Ltd. Officers' Service Rules, 2006, mandates that upon non-compliance with the first VCS notice, the employer must issue a “second notice” contemporaneously. It is pertinent to note that in the present case, upon receiving the petitioner's aforesaid reply dated 17.09.2021 to the first VCS notice, the respondent did not, in the immediate aftermath thereof, resort to issuing a second notice as prescribed under the said Rules. The respondent also did not issue any communication, either accepting or rejecting the explanation given by the petitioner.

60. Inexplicably, even though no further steps were taken at the relevant point of time, it transpires that the respondent had stopped paying salary to the petitioner w.e.f. October 2020. There is no justification whatsoever for



the same, especially considering that the petitioner was embroiled in legal proceedings against the senior management of the respondent in respect of her allegations of sexual harassment.

61. It is in the aftermath of the W.P.(C) 1841/2021 being disposed of *vide* judgment/ order dated 09.04.2024 and after the petitioner had invoked the appellate remedy that the respondent purported to issue a ‘second VCS notice’ on 30.07.2024.

62. The petitioner responded to the said notice *vide* communication dated 26.08.2024 reiterating the circumstances that compelled her to refrain from attending office since October 2020. The petitioner also made a reference to several prior communications addressed to the respondent in this regard.

63. There is nothing on record to indicate that the petitioner’s grave allegations of a hostile workplace were ever considered by the respondent. As mentioned hereinabove, these concerns were later validated by the judgment passed by the Appellate Tribunal which concluded that the petitioner was denied a fair and proper inquiry on her allegations of sexual harassment. Notably, no appeal was filed by the respondent against the findings rendered in the said judgment and the same has acquired finality.

64. It is incongruous that while the petitioner was locked in a battle with the respondent to secure a fair and proper inquiry as regards her complaints of sexual harassment at workplace, the respondent sought to take coercive steps against the petitioner by invoking Rule 25(A), thereby virtually dealing a “double blow” to the petitioner, first by denying a fair inquiry and second by initiating termination proceedings. Such conduct is antithetical to the POSH Act.

65. It is also notable that Rule 25(A) of the IDBIL Officer’s Rules, 2006



contemplates that after issuance of the “second notice”, “a final notice to report within 15 days is required to be issued by the respondent”. However, the impugned order does not purport to give any such final notice and straightaway concludes that upon the petitioner’s failure to resume duty upon second notice, she is deemed to have voluntarily vacated the service of the bank w.e.f. 02.09.2024.

66. The Tribunal’s findings [as contained in the order dated 09.12.2024 (supra)] undermine/negate the respondent’s narrative that the petitioner’s conduct was unprofessional or that her complaints lacked merit. The causal link between the petitioner’s distress and the institutional response to her complaint is evident. The respondent’s contention that the sexual harassment allegations bear no causal connection to the petitioner’s continued absence is unpersuasive. Here, reference may also be made to the following observations of this Court in ***U.S. Verma, Principal, DPS v. National Commission for Women***, 2009:DHC:4221.

“67. Whenever such complaints of harassment arise, it is expected that the authority – be it employer, regulator (of private enterprise, or agency, against which such complaint is made) is alive that such are outlawed not only because they result in gender discrimination, of the individual aggrieved, but since they create and could tend to create- a hostile work environment, which undermines the dignity, self-esteem and confidence of the female employees, and would tend to alienate them. The aim of the Vishaka was to ensure a fair, secure and comfortable work environment, and completely eliminate possibilities where the protector could abuse his trust, and turn predator, or the protector-employee would insensitively turn a blind eye.”

67. This Court is of the view that the petitioner’s absence was a consequence of the hostile work environment and procedural lapses in addressing her complaints. While her extended leave and academic pursuits



may technically breach service norms, such conduct must be assessed in light of the sustained institutional failure to provide a safe and responsive workplace. The claim of voluntary abandonment, therefore, stands rejected.

68. The petitioner's non-attendance at the ICC's re-inquiry proceedings cannot be construed as abandonment of her claims. Her apprehension of bias and lack of institutional faith is not unfounded, particularly in view of the earlier procedural lapses. In ***Dr. Punita K. Sodhi v. Union of India and Ors.*** (W.P(C). 367/2009); the Court observed as under:

“62. The Petitioner objected at the very beginning that the Committee examining her complaint of sexual harassment was not properly constituted. She wrote numerous letters to the MHFW and to other authorities. But none of them paid any heed to her repeated requests. She had to approach this Court very often for redress. From her point of view, as a victim of sexual harassment, she was entitled to ask for a Committee that was constituted strictly in accordance with the Vishaka Guidelines. The Petitioner could not be expected to be sanguine that her complaint would be enquired into in a fair and impartial way. If she decided not to participate in the proceedings before such Committee, no adverse inference could be drawn against her on that score.”

69. In the facts and circumstances of the present case and in view of the judgment dated 09.12.2024 rendered by the Appellate Tribunal, it is evident that, the proceedings before the ICC are required to be carried to their logical conclusion. Accordingly, the petitioner is expected to appear before the ICC and participate in the inquiry proposed to be conducted.

70. Further, the respondent's allegation that the petitioner seeks to claim undue service benefits is untenable given the factual context of the present case. It is noted that even the Tribunal, in its judgement dated 09.12.2024, has expressed reservations as regards this contention of the respondent, by observing as follows:



“37. In view of the facts and circumstances as discussed above, this Tribunal is of the view that the impugned order dated 16.03.2020 is illegal as being made in violation of principles of natural justice. Accordingly, the same is set aside as this Tribunal finds illegality and infirmity in the observations made by ICC.

38. So far as relief sought in prayer No. 2 to 10 of prayer clause of appeal is concerned, same are not maintainable under the POSH Act being not falling within the parameters of Section 18 of the Act as this Tribunal is having limited powers and is required to see whether proceedings conducted by ICC were as per law or not following due process and principles of natural justice. Hence, appellant is at liberty to press the relief sought in paras no. 2 to 10 of prayer clause before appropriate authority as per law.

This observation of the court totally rules out the apprehension of the respondent that by way of this appeal, complainant is seeking various service benefits unduly from respondent.”

71. In **Dr. Sohail Malik v. Union of India and Another**, 2023 SCC OnLine Del 3764, this Court, observed as under:

“18. The Statement of Objects and Reasons, and the Preamble, of the SHW Act read thus:

Statement of Objects and Reasons

“1. Sexual harassment at a workplace is considered violation of women's right to equality, life and liberty. It creates an insecure and hostile work environment, which discourages women's participation in work, thereby adversely affecting their social and economic empowerment and the goal of inclusive growth.

2. The Constitution of India embodies the concept of equality under Articles 14 and 15 and prohibits discrimination on grounds of religion, race, caste, sex or place of birth or any of them. Article 19(1)(g) gives the fundamental right to all citizens to practise any profession, or to carry on any occupation, trade or business. This right pre-supposes the availability of an enabling environment for women, which is equitable, safe and secure in every aspect. Article 21, which relates to the right to life and personal liberty, includes the right to live with dignity, and in the case of women, it means that they



must be treated with due respect, decency and dignity at the workplace.

3. Article 11 of the Convention on Elimination of All Forms of Discrimination (Cedaw), to which India is a party, requires State parties to take all appropriate measures to eliminate discrimination against women in the field of employment. In its General Recommendation No. 19 (1992), the United Nations Committee on Cedaw further clarified that equality in employment can be seriously impaired when women are subjected to gender-specific violence, such as sexual harassment at the workplace. India's commitment to protection and promotion of women's constitutional rights as well as respect for its obligations under various international treaties is unequivocal.

4. With more and more women joining the workforce, both in organised and unorganised sectors, ensuring an enabling working environment for women through legislation is felt imperative by the Government. The proposed legislation contains provisions to protect every woman from any act of sexual harassment irrespective of whether such woman is employed or not.

5. The Supreme Court of India in Vishaka v. State of Rajasthan [Vishaka v. State of Rajasthan, (1997) 6 SCC 241 : 1997 SCC (Cri) 932] , also reaffirmed that sexual harassment at workplace is a form of discrimination against women and recognised that it violates the constitutional right to equality and provided guidelines to address this issue pending the enactment of a suitable legislation.

6. It is, thus, proposed to enact a comprehensive legislation to provide for safe, secure and enabling environment to every woman, irrespective of her age or employment status (other than domestic worker working at home), free from all forms of sexual harassment by fixing the responsibility on the employer as well as the District Magistrate or Additional District Magistrate or the Collector or Deputy Collector of every district in the State as a District Officer and laying down a statutory redressal mechanism.

7. The notes on clauses explain in detail the various provisions contained in the Bill.

8. The Bill seeks to achieve the above objectives.”

(emphasis supplied)

Preamble



“An Act to provide protection against sexual harassment of women at workplace and for the prevention and redressal of complaints of sexual harassment and for matters connected therewith or incidental thereto.

Whereas sexual harassment results in violation of the fundamental rights of a woman to equality under Articles 14 and 15 of the Constitution of India and her right to life and to live with dignity under Article 21 of the Constitution and right to practise any profession or to carry on any occupation, trade or business which includes a right to a safe environment free from sexual harassment;

And whereas the protection against sexual harassment and the right to work with dignity are universally recognised human rights by international conventions and instruments such as Convention on the Elimination of all Forms of Discrimination against Women, which has been ratified on the 25-6-1993 by the Government of India;

And whereas it is expedient to make provisions for giving effect to the said Convention for Protection of Women against Sexual Harassment at workplace.”

19. 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; and (x) ensuring that every woman is provided a safe working environment, insulated from any act of sexual harassment, of any form. Each and every one of these objectives is, conspicuously, “harasser-neutral”. In an era in which one has to say it, as one sees it every day even in the court women are equalling, if not outnumbering, men in professional achievements, there can be no compromise on any of these objectives. Applying Shailesh Dhairyawan case [Shailesh Dhairyawan v. Mohan Balkrishna Lulla, (2016) 3 SCC 619 : (2016) 2 SCC (Civ) 426] and Richa Mishra case [Richa Mishra v. State of Chhattisgarh, (2016) 4 SCC 179 : (2016) 1 SCC (L&S) 583] , therefore, any interpretation, of the provisions of the SHW Act, which downplays, or impedes complete achievement and implementation of, one or more of these objectives, has to be firmly eschewed.”

72. The POSH Act is not merely a procedural framework, it is a



protective statute designed to ensure that women are able to work in a safe environment free from fear, intimidation and retaliation. The petitioner's absence from work must be viewed in the context of her apprehension of a hostile work environment, which remained unaddressed due to institutional lapses. This Court finds no impediment in holding that the respondent's failure to effectively address the petitioner's complaint of sexual harassment constitutes a breach of the underlying principles and objectives of the *Vishaka* guidelines as well as the statutory mandate of the POSH Act. Permitting adverse service action during pendency of ICC proceedings would have a chilling effect, discouraging the victim of sexual harassment from reporting the same thereby defeating the preventive and deterrent purpose of the POSH Act.

73. It may be noted that the above protection is not in the nature of 'immunity'; rather, it operates as a temporary embargo on coercive or punitive service action until the ICC proceedings conclude, after which the Service Rules may be invoked in accordance with law.

74. Reference is also warranted to a recent judgement dated 28.08.2025 rendered by this Court in W.P.(C) 1103/2020 (and W.P.(C) 2546/2021), captioned "*X vs. Akademi and Ors.*", in a somewhat similar context. In the factual matrix of the said matter, the petitioner's grievance pertaining to sexual harassment at the workplace was pending consideration when her services were abruptly terminated by the employer. This Court, holding the impugned termination to be vitiated by mala fides and quashing the Office Memorandum discharging the petitioner from services, observed as under:

"107. Before parting, it must be observed that the present controversy could well have been avoided had the Akademi, as a premier cultural



institution acted with the degree of openness and responsibility the law demands. When confronted with a complaint of sexual harassment against its own Secretary, the Akademi could have easily agreed to independent examination by the LCC, thereby reinforcing institutional confidence in its processes and upholding the statutory framework of the POSH Act. Instead, it chose to resist such scrutiny through technical objections and, simultaneously, terminated the services of the complainant during the pendency of proceedings. The Akademi's assertion that the Petitioner continues to draw salary as a probationer without discharging duties ignores that this situation is a direct consequence of the Akademi's own conduct. Rather than accommodating her in another branch office or providing a work environment free from hostility, the Akademi elected to treat her as an adversary. The statute itself contemplates interim measures, including paid leave, to protect the dignity and security of a complainant. Accordingly, the consequences of present arrangement which affords the Petitioner salary without work, cannot be attributed to the Petitioner.

108. Institutions such as the Akademi shoulder not only administrative obligations but also a responsibility to exemplify the creation of safe and dignified workplaces. Rather than perceiving the LCC's role as intrusive, the Akademi could have treated it as an opportunity to ensure transparency and restore faith among its employees and the public at large.

109. The POSH Act was enacted to provide effective remedies and to prevent precisely such situations where hierarchies within organisations can obstruct a fair inquiry. Compliance with its mandate is not a matter of discretion but a legal obligation. The Akademi's approach in this case serves as a reminder that statutory bodies must not be seen as protecting individuals in positions of power at the expense of those who seek justice.

110. In the result, for the reasons recorded hereinabove, this Court holds that the LCC had jurisdiction to inquire into the Petitioner's complaint and that the termination of her services was vitiated by mala fides and non-compliance with the principles of natural justice. The Discharge OM dated 14th February, 2020 is accordingly quashed. The complaint filed by the Petitioner shall proceed before the LCC in accordance with law."

75. Accordingly, for all the above reasons, this Court is inclined to hold that the impugned termination order dated 02.09.2024 is unsustainable in law. The same is, accordingly, set aside.



76. At this stage, it is apposite to refer to the judgement rendered by the Supreme Court in **Anantdeep Singh v. The High Court of Punjab and Haryana at Chandigarh &Anr.** (M.A. NO.267 OF 2024 IN C.A.NO.3082 OF 2022). The relevant extracts are as under:

“21.Once the termination order is set aside and judgment of the High Court dismissing the writ petition challenging the said termination order has also been set aside, the natural consequence is that the employee should be taken back in service and thereafter proceeded with as per the directions. Once the termination order is set aside then the employee is deemed to be in service. We find no justification in the inaction of the High Court and also the State in not taking back the appellant into service after the order dated 20.04.2022. No decision was taken either by the High Court or by the State of taking back the appellant into service and no decision was made regarding the back wages from the date the termination order had been passed till the date of reinstatement which should be the date of the judgment of this Court. In any case, the appellant was entitled to salary from the date of judgment dated 20.04.2022 till fresh termination order was passed on 02.04.2024. The appellant would thus be entitled to full salary for the above period to be calculated with all benefits admissible treating the appellant to be in continuous service.

22. Insofar as the period from 18.12.2009 i.e., after the termination order of 17.12.2009 was passed till 19.04.2022 the date prior to the judgment and order of this Court, we are of the view that ends of justice would be served by directing that the appellant would be entitled to 50 percent of the back wages treating him to be in service continuously. Such back wages to be calculated with all benefits admissible under law to the appellant as if he was in service.”

77. In view of **Anantdeep Singh** (supra), the petitioner shall be deemed to be in service from the date of the termination. Moreover, the petitioner is entitled to salary and all consequential service benefits for the period for which the same have been denied to her.

78. In the circumstances, the following directions are issued:-



- a) The petitioner shall appear before the ICC and cooperate in the conduct of the inquiry; the said inquiry shall be conducted strictly in accordance with the applicable statutory rules and regulations. The composition of the ICC shall be as contemplated under section 4 of the POSH Act. The ICC shall adhere to the procedural requirements as contemplated under the statute and the rules framed thereunder.
- b) It shall be for the ICC to consider whether during pendency of the inquiry, the petitioner is entitled to leave as contemplated under section 12 of the POSH Act;
- c) The impugned termination order dated 02.09.2024 is set aside. The petitioner shall be reinstated in service, and the respondent Bank shall pay the petitioner full back wages (since October 2020) as also all the benefits, including emoluments and other admissible entitlements (including for the past period since October 2020).
- d) As regards the claim for compensation, in view of the overall conspectus, particularly the protraction of the proceedings under the POSH Act, it is directed that the petitioner shall be paid an amount of Rs.5,00,000/- (which shall be deemed to include litigation expenses) by the respondent.
- e) After conclusion of ICC proceedings, it shall be open to the respondent to prospectively invoke / apply the 'Service Rules', as may be warranted.

79. The petition is disposed of in the above terms. Pending applications



2025:DHC:11525



also stand disposed of.

DECEMBER 17, 2025
ss, uk

SACHIN DATTA, J