



* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment Reserved on: 08.07.2026

Judgment Delivered on: 24.08.2026

+ LPA 38/2026, CM APPL. 6025/2026, CM APPL. 6028/2026 & CM APPL. 26661/2026

IDBI BANK LTD.

.....Appellant

versus

SHARANJEET KAUR

.....Respondent

Advocates who appeared in this case

For the Appellant : Ms. Pinky Anand, Senior Advocate with Mr. Krishan Kumar, Mr. Nitin Pal, Ms. Saudamini Sharma, Ms. Priya Pathak, Mr. Samrat Pasriccha, Ms. Adeti Salooja, Mr. Shashank Chamoli and Mr. Vinayak Tiwari, Advocates.

For the Respondent : Ms. Sharanjeet Kaur, Respondent-in-person.
Mr. Darpan Wadhwa, Senior Advocate (*Amicus Curiae*) with Ms. Rea Bhalla and Ms. Divita Vyas, Advocates.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE TEJAS KARIA



JUDGMENT

TEJAS KARIA, J

CM APPL. 6029/2026 (Exemption)

1. Exemption is allowed, subject to all just exceptions.
2. The Application stands disposed of.

LPA 38/2026

3. The present Letters Patent Appeal is preferred against judgment dated 17.12.2025 (“**Impugned Judgment**”) passed in W.P.(C) 17666/2024 titled as ‘*Sharanjeet Kaur v. IDBI Bank Ltd.*’ (“**Writ Petition**”), whereby the learned Single Judge disposed of the Writ Petition with the following directions:

“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.”



FACTUAL MATRIX

4. The Respondent joined the Appellant, Industrial Development Bank of India (“**IDBI Bank**”), as Assistant Manager (Grade A) at the Pitampura Branch, Delhi, on 25.07.2011. In 2016, the Respondent was promoted to the post of Manager (Grade B) and was, thereafter, transferred to the Chandigarh Zone.
5. As per the Appellant, the Respondent has a history of unauthorised absence from duty from 20.02.2017 to 29.04.2017, for which the Appellant had initiated disciplinary proceedings against the Respondent and issued an imputation of lapses *vide* letter dated 14.03.2018.
6. On 01.03.2018, the Respondent was transferred to the Appellant’s Sector 8C Branch at Chandigarh. Thereafter, the Respondent proceeded on another spell of leave from 03.03.2018 to 23.06.2018.
7. On 08.10.2018, the Respondent reported that she had been subjected to sexually coloured derogatory remarks and a hostile work environment during her posting at the Appellant’s Chandigarh Branch. Aggrieved thereby, the Respondent lodged a complaint against the then General Manager of the Appellant at Chandigarh.
8. The Respondent filed a workplace harassment complaint on 11.10.2018 (“**Complaint**”), which was dismissed pursuant an inquiry report dated 22.11.2018 on the ground that the incident complained of pertained to a business instruction issued in the ordinary course of office functioning, and that the allegations were not substantiated by any evidence. Thereafter, on 30.11.2018, the Respondent requested that her complaint be treated as one under the Sexual Harassment of Women at Workplace (Prevention,



Prohibition and Redressal) Act, 2013 (“**POSH Act**”) and, accordingly, lodged her first complaint under POSH Act before the Internal Complaints Committee (“**ICC**”) of the Appellant on 11.12.2018 (“**POSH Complaint**”).

9. *Vide* e-mail dated 04.02.2019, the Respondent unconditionally withdrew the POSH Complaint in view of the amicable settlement arrived at between the parties. Accordingly, the proceedings under the POSH Act were concluded on 26.02.2019 by the ICC of the Appellant.

10. The Respondent again approached the ICC on 21.06.2019 seeking to re-agitate the POSH Complaint. On 01.07.2019, the Respondent was transferred to the Pitampura Branch, Delhi of the Appellant. The Respondent alleged that she was subjected to discrimination and an extremely hostile work environment at Pitampura Branch, Delhi of the Appellant as well and submitted another complaint dated 05.08.2019 requesting that the POSH Complaint be re-opened.

11. On 13.08.2019, the ICC closed the complaint dated 05.08.2019 on the ground that no fresh inquiry was warranted as the POSH Complaint had already stood closed pursuant to the Respondent’s e-mail dated 04.02.2019.

12. The Respondent again sought to re-agitate the POSH Complaint on 14.08.2019, which was also rejected by the ICC on 23.08.2019 for want of any new facts or allegations. A further complaint dated 30.08.2019 by the Respondent was also disposed of by the ICC on 04.09.2019, holding that the allegations levelled by the Respondent did not fall within the ambit of the POSH Act.

13. On 04.12.2019, the Respondent submitted a representation to the Managing Director and Chief Executive Officer of the Appellant in respect of



the POSH Complaint. Pursuant thereto, the matter was reconsidered by the ICC and by the final order dated 16.03.2020 (“**ICC Order**”), the ICC dismissed the proceedings on the ground that no fresh allegations had been raised.

14. The Respondent thereafter filed W.P.(C) 1841/2021 before this Court challenging the ICC Order. *Vide* order dated 04.05.2021 passed in W.P. (C) 1841/2021 by this Court, it was directed that any further action shall be subject to the outcome of W.P.(C) 1841/2021.

15. In the meanwhile, the Respondent proceeded on a prolonged leave from 28.10.2020 to 02.09.2024, spanning 1,045 days. In view of the Respondent’s continued absence for the duty, the Appellant issued the Voluntary Cessation of Service (“**VCS**”) notice dated 30.08.2021 (“**First VCS Notice**”), calling upon her to explain her absence. The Respondent submitted her reply dated 17.09.2021 (“**Reply**”), stating that her absence from duty since October 2020 related to the pendency of W.P.(C) 1841/2021 before this Court and, therefore, could not warrant cessation of service. She further requested that no adverse action be taken in view of this Court’s order dated 04.05.2021, whereby any further action was made subject to the outcome of W.P.(C) 1841/2021.

16. During the pendency of W.P.(C) 1841/2021, the Respondent filed an application seeking stay of the First VCS Notice. Although no stay was granted by this Court, the Appellant voluntarily kept the VCS proceedings in abeyance pending the outcome of the W.P.(C) 1841/2021.

17. W.P.(C) 1841/2021 was dismissed *vide* order dated 09.04.2024 on the ground of availability of an alternate efficacious remedy. Aggrieved thereby,



the Respondent preferred LPA 417/2024, which was also dismissed *vide* order dated 22.05.2024, thereby affirming the order dated 09.04.2024. However, the Coordinate Bench of this Court while dismissing LPA 417/2024 directed that in the event the Appellant were to file a proceeding under Section 18 of the POSH Act within the territorial jurisdiction of this Court and if it is maintainable, the same shall be disposed of in accordance with law as expeditiously as possible preferably within six months.

18. The Respondent, thereafter, approached the Appellate Tribunal under Section 18 of the POSH Act (“**Appellate Tribunal**”) on 05.06.2024, seeking quashing of the ICC Order, payment of back wages, compensation for mental agony, and punitive damages.

19. Since the Respondent continued to remain absent from duty without authorisation with effect from 28.10.2020, the Appellant issued another VCS Notice dated 30.07.2024 (“**Second VCS Notice**”), directing her to report for duty forthwith and cautioning her that failure to comply would result in her services being treated as having voluntarily ceased in terms of Clause 25A, Chapter V of the IDBI Ltd. Officers’ Service Rules, 2006 (“**IDBI Service Rules**”).

20. The Respondent replied to the Second VCS Notice on 26.08.2024, which was received by the Appellant only on 02.09.2024. Accordingly, the Appellant passed the final VCS order dated 02.09.2024 (“**VCS Order**”), deeming the Respondent to have voluntarily ceased from service in terms of the Second VCS Notice and the IDBI Service Rules.

21. Thereafter, the Appellate Tribunal, *vide* order dated 09.12.2024 (“**Appellate Order**”), observed that the ICC Order had been passed in



violation of the principles of natural justice, without hearing the appellant therein or examining witnesses, and was an unreasoned decision. It was further observed in the Appellate Order that the respondent therein, i.e., the Appellant herein had failed to constitute a permanent ICC at its Delhi office as mandated under Section 4 of the POSH Act, and that the allegation of poor performance against the Appellant was baseless. The Appellate Tribunal accordingly directed constitution of an ICC in compliance with Section 4 of the POSH Act within one month and set aside the ICC Order.

22. Aggrieved by the VCS Order, the Respondent filed the Writ Petition on 17.12.2024 seeking quashing of the VCS Order and grant of compensation under the POSH Act. Learned Single Judge, *vide* order dated 21.01.2025 granted stay of the VCS Order.

23. Learned Single Judge, *vide* the Impugned Judgment, allowed the Writ Petition on 17.12.2025, directed payment of full back wages to the Respondent with effect from October 2020, awarded compensation of ₹5,00,000/- to the Respondent, and directed her to appear before the ICC constituted pursuant to the directions of the Appellate Tribunal.

24. Being aggrieved by the Impugned Judgment, the Appellant preferred the present Appeal.

25. In the meantime, the Appellant decided not to challenge the Appellate Order and on 01.02.2025 constituted the ICC in accordance with Section 4 of the POSH Act and initiated fresh proceedings as directed by the Appellate Order. Subsequently, the Respondent filed Contempt Petition being C.P. 68/2026 against the Appellant alleging non-compliance with the Impugned Judgment.



26. *Vide* order dated 29.01.2026 passed in this Appeal it was observed that the Appellant shall not proceed with the proceedings before the ICC and the same shall remain stayed and that the Respondent shall take adjournment in the said Contempt Petition, which interim arrangement has continued by way of subsequent orders passed in this Appeal.

SUBMISSIONS ON BEHALF OF THE APPELLANT

27. Ms. Pinky Anand, learned Senior Counsel for the Appellant made the following submissions:

- 27.1. The Respondent remained unauthorisedly absent from duty on several occasions during her tenure. The first spell of absence was from 15.11.2016 to 07.02.2017, extending to 84 days; the second spell was from 20.02.2017 to 29.04.2017, extending to 69 days; the third spell was from 22.05.2017 to 14.08.2017, extending to 85 days; and the fourth spell was from 03.10.2017 to 22.06.2018, extending to 263 days.
- 27.2. In view of the Respondent's repeated and continued unauthorised absence from duty, the Appellant imposed the penalty of withholding one increment for a period of one year with immediate effect. Further, the period of unauthorised absence was treated as Extraordinary Leave not counting for pay, allowances, or terminal benefits, including pension, provident fund and gratuity, *vide* order dated 31.05.2018.
- 27.3. The Impugned Judgment erroneously proceeds on the premise that the VCS action overlapped with the ICC proceedings. The ICC had conclusively closed the POSH Complaint *vide* the ICC Order,



whereas the First VCS Notice was issued only on 30.08.2021, i.e., more than 17 months thereafter. The VCS action was, therefore, independent of and unconnected with the POSH proceedings.

- 27.4. Under the POSH Act, a finding by the ICC that the charge of sexual harassment stands proved constitutes the foundation for misconduct, whereupon the employer is required to proceed in accordance with the applicable service rules.
- 27.5. Section 28 of the POSH Act makes it clear that the statute operates in addition to, and not in derogation of, other applicable laws. Reliance was placed upon ***Debjani Sengupta v. Institute of Cost Accountants***, 2019 SCC OnLine Cal 734, in support of the said submission.
- 27.6. The POSH Act does not, by its operation, override or suspend the statutory service rules governing attendance or discipline. The Respondent never invoked Section 12 of the POSH Act, which is the only provision enabling interim relief by way of leave, and that too for a limited period of 3 months. In the absence of any such application or order, the Respondent was not entitled to claim statutory protection against action taken for unauthorised absence.
- 27.7. Reliance was also placed upon ***XXX v. Abraham Mathai***, 2025 SCC OnLine Ker 5793, wherein it was held that grievances relating to hostile treatment, denial of salary and termination amounted to a labour dispute, and did not constitute sexual harassment within the meaning of Section 2(n) of the POSH Act.



27.8. In her Reply to the First VCS Notice, the Respondent admitted that she had not reported for duty after October 2020. It is well settled that grant of back wages is not automatic, and that the principle of ‘no work, no pay’ applies with full force in cases of wilful and prolonged absence. The learned Single Judge erred in directing payment of full back wages despite the Respondent’s admitted absence from service and her pursuit of a personal academic course without obtaining the requisite permission under the Service Rules. Reliance was placed upon the following decisions in support of the said submission:

- a. ***Ct. Drv. Ismail Khan v. Union of India & Ors.***, 2016 SCC OnLine Del 3074;
- b. ***Union of Territory, Chandigarh v. Brijmohan***, (2007) 11 SCC 488;
- c. ***Airport Authority of India & Ors. v. Shambhu Nath Das***, (2008) 11 SCC 498; and
- d. ***Airport Authority of India, represented by the Regional Executive Director and Others v. Praveen VS and Another***, 2025 SCC OnLine Gau 4993.

27.9. The award of compensation of ₹5,00,000/- to the Respondent in the Impugned Judgement was unreasoned, being unsupported by any finding of *mala fide*, victimisation, or illegality attributable to the Appellant. The Appellant acted strictly in accordance with the applicable statutory rules, despite having extended repeated indulgence to the Respondent. Compensation cannot be awarded



either as a matter of sympathy or as a matter of course, particularly where the consequences complained of are attributable to the Respondent's own conduct.

- 27.10. The Impugned Judgment erroneously subordinates the Service Rules to the POSH Act by conflating two distinct statutory and service-law regimes. The POSH Act is a beneficial legislation intended to secure workplace safety and dignity; it cannot be construed as a licence to legitimise indiscipline, condone prolonged unauthorised absence, or excuse non-compliance with the applicable Service Rules.
- 27.11. The pendency of ICC proceedings neither suspend the operation of the governing Service Rules, nor does it confer upon an employee any right to remain unauthorisedly absent or to act at her own discretion. An employee continues to remain bound by office discipline and is obligated to discharge her duties during and after such proceedings. Correspondingly, the employer's authority to regulate service conditions remains unimpaired, subject only to the requirement that such authority be exercised lawfully and *bona fide*.
- 27.12. Section 10(4) of the POSH Act does not curtail the employer's power to proceed under the applicable Service Rules in respect of misconduct unconnected with sexual harassment, since ICC proceedings do not substitute or eclipse the employer's disciplinary jurisdiction. The VCS Order was passed solely on account of the Respondent's unauthorised absence and strictly in



terms of the VCS Rules. Learned Single Judge failed to consider these submissions and erred in quashing the VCS Order, which had been issued after the POSH Complaint stood disposed of *vide* the ICC Order. To permit ICC proceedings to operate as a shield against independent service misconduct would undermine institutional discipline and incentivise non-compliance with service norms.

27.13. Accordingly, it was submitted that the Impugned Judgment deserves to be set aside and the present Appeal allowed.

SUBMISSIONS ON BEHALF OF THE AMICUS CURIAE

28. Mr. Darpan Wadhwa, learned *Amicus Curiae* made the following submissions:

- 28.1. The Respondent joined the Appellant in 2011 and was regarded as a competent employee, having also been granted a promotion in 2016. The allegations against the Respondent appear to have commenced around the same time as the filing of the POSH Complaint.
- 28.2. The Appellate Order, which held that the ICC had not been duly constituted, has attained finality. It is, therefore, no longer open to dispute that the Respondent's grievance relating to sexual harassment at the workplace was not adequately addressed, and that the ICC Order was passed in violation of the POSH Act.
- 28.3. The Appellant cannot be permitted to contend that the Respondent failed to avail remedies under Section 12 of the POSH Act, when the Appellant itself had failed to constitute a duly constituted ICC.



Section 12 of the POSH Act contemplates interim measures during the pendency of an inquiry; however, in the absence of a validly constituted ICC, the question of the Respondent invoking Section 12 of the POSH Act does not arise. The Respondent ought not to be prejudiced on account of the ICC's failure to inquire into her grievances in accordance with law.

- 28.4. Learned Single Judge, while passing the Impugned Judgment, was persuaded that the timing of the VCS Order, coinciding with the pendency of the POSH Complaint, was indicative of *mala fides*. The findings in the Appellate Order, which remain unchallenged by the Appellant, establish that the closure of the POSH Complaint by the ICC Order was not in accordance with the provisions of the POSH Act.
- 28.5. Under Section 11(4) of the POSH Act, an ICC inquiry is required to be completed within 90 days. During such period, the ICC may recommend that the complainant be granted leave for a corresponding duration, to afford protection from further harassment or vindictive conduct pending inquiry. Applying the said principle to the present case, since the POSH Complaint remained pending and its closure has been held to be unjustified, the Respondent ought to be treated as having been on leave during the relevant period and, consequently, ought not to be denied wages or continuity of service. The Appellant, having failed to consider the POSH Complaint in accordance with law, must bear the consequences of its own default.



- 28.6. The ICC's failure to observe the principles of natural justice, and the manner in which the Appellant dealt with the Respondent's grievances are considered by learned Single Judge in the Impugned Judgment while noting the sudden termination of the complainant's employment without cause raised concerns of bias in the ICC proceedings, and that the ICC had failed to inspire confidence or provide assurance to the Respondent despite her repeated expressions of discomfort.
- 28.7. The Appellant's contention regarding deemed VCS on account of the Respondent's continued absence and reliance placed on the IDBI Service Rules, which prescribe the procedure in cases of continued absence and require the employee to furnish an explanation are misconceived, inasmuch as the Respondent had, on both occasions, furnished plausible and satisfactory explanations, namely: (i) the pendency of the Writ Petition at the time of the First VCS Notice; (ii) the pendency of the appeal before the Appellate Tribunal at the time of the Second VCS Notice; and (iii) the continuing harassment and unfair treatment in relation to the POSH Complaint. The Appellant ought to have considered these explanations in their letter and spirit, rather than summarily rejecting them as unsatisfactory without due application of mind.
- 28.8. Paragraph No. 44 of the Impugned Judgment, to the extent it holds that service laws are subordinate to the POSH Act, does not appear to be the position in law and may be set aside. However, learned



Single Judge arrived at the correct conclusion, and the Impugned Judgment ought, therefore, to be upheld.

SUBMISSIONS ON BEHALF OF THE RESPONDENT

29. Ms. Sharanjeet Kaur, Respondent-in-person made the following submissions:

- 29.1. The Appellate Tribunal, *vide* the Appellate Order, held that the ICC Order had been passed without adherence to due process, without affording a proper hearing, and without undertaking the requisite fact-finding exercise, thereby resulting in a miscarriage of justice. It further held that the ICC Order was a non-speaking order vitiated by violation of the principles of natural justice and reflected the Appellant's failure to discharge its obligations under the POSH Act, including its failure to protect the Respondent and to constitute the ICC except after her complaint.
- 29.2. Learned Single Judge held that the Respondent's grievance regarding non-redressal of her sexual harassment complaints stood vindicated by the Appellate Order. It was further held that the denial of a fair inquiry under the POSH Act since 2018, owing to the Appellant's failure to constitute the ICC in a timely manner and its subsequent conduct of a perfunctory inquiry, had a direct bearing on the Respondent's employment, including her absence from duty and the consequent VCS action. In these circumstances, the VCS Order could not be treated as a neutral service action divorced from the hostile work environment and institutional failures recorded in the Appellate Order.



- 29.3. The Appellant failed to discharge its statutory obligation under the POSH Act to conduct a fair and proper inquiry, which resulted in the unlawful closure of the POSH Complaint *vide* the ICC Order, which stands affirmed by the Appellate Order. Even after conciliation, the Respondent continued to face victimisation and a hostile work environment, including repeated retaliatory transfers, the last of which was to the Delhi Zone within 15 days of joining.
- 29.4. The Respondent was denied basic work infrastructure and was constrained to stand or sit on customer chairs until her last day in office, thereby effectively excluding her from meaningful participation in the workplace. The Respondent was coerced into signing irregular loan documents so as to implicate her, which conduct was wholly inconsistent with the Appellant's statutory obligation under the POSH Act to ensure a safe and dignified workplace.
- 29.5. The Appellant, from the outset contended before this Court and the Appellate Tribunal that a fair inquiry had been conducted and that the POSH Complaint had been lawfully closed. The Appellant further adopted dilatory tactics, securing adjournments in 9 out of 14 effective hearings in W.P.(C) 1841/2021, until the Appellate Tribunal held that the closure of the complaint was without proper inquiry. A re-inquiry was commenced only after the Appellate Order and the stay of the VCS Order in the Writ Petition, without any compensation for the Respondent's sustained injuries. Such



mala fide conduct rendered the Respondent's continued presence at work untenable and justified her absence, being in derogation of her right to a safe workplace under Articles 14, 15 and 21 of the Constitution of India, 1950 ("**Constitution**").

- 29.6. The Appellant's contention is untenable, as it is premised on the ICC Order which, *vide* the Appellate Order, was categorically set aside as illegal and violative of the principles of natural justice, the POSH Complaint having remained inconclusive amid continuing hostility. The Appellate Tribunal and this Court further found that the Respondent's absence from October 2020 was compelled by retaliatory conduct and did not amount to voluntary abandonment, a position which the Respondent had conveyed to the Appellant in her replies dated 17.09.2021 and 26.08.2024 to the First VCS Notice and the Second VCS Notice respectively. The VCS Order, therefore, cannot be characterised as action for independent misconduct, but was the culmination of continuous retaliation.
- 29.7. Under Section 11(4) read with Section 12 of the POSH Act, the ICC is required to complete its inquiry within 90 days and may recommend leave to the complainant for a corresponding period. The Appellant's contention that the Respondent failed to invoke Section 12 of the POSH Act is, therefore, misconceived, particularly when the Appellate Tribunal has recorded the Appellant's failure to conduct a proper inquiry in accordance with POSH Act, and the Appellant Tribunal as well as learned Single



Judge have recognised the continuing hostile work environment and breach of statutory obligations by the Appellant.

- 29.8. The Appellant's submissions founded on the principles of 'no work, no pay' and 'abandonment' are untenable. The Appellant Tribunal as well as learned Single Judge concurrently found that the Respondent's absence was compelled by the Appellant's continuing failure to provide a safe workplace. The Respondent's absence must, therefore, be treated as protective leave, with the Appellant bearing the consequences of its own unlawful conduct, thereby entitling the Respondent to back wages from 2020.
- 29.9. The compensation awarded by this Court *vide* the Impugned Judgment, having regard to the overall conspectus and particularly the protraction of proceedings under the POSH Act, was not founded on sympathy but on the Appellant's retaliatory and obstructive conduct. Such conduct compelled the Respondent to engage in repeated litigation since 2018 merely to secure the fair inquiry statutorily guaranteed to her, after the Appellant had unlawfully closed the POSH Complaint. This, together with the costs of ₹50,000/- earlier imposed by the Appellate Tribunal, reflects consistent judicial findings of bad faith and abuse of process on the part of the Appellant.
- 29.10. The Appellant's attempt to characterise the termination *vide* the VCS Order as an independent disciplinary action for unauthorised absence ignores the concurrent findings of institutional failure and retaliation. Learned Single Judge, *vide* the Impugned Judgment,



rightly held that a service-rule termination inextricably connected with the denial of a fair POSH inquiry and a hostile work environment was not an independent act, but a colourable exercise of power. Permitting such action would defeat the object of the POSH Act and legitimise retaliation.

- 29.11. This Court in ***X v. Akademi & Ors.***, Neutral Citation: 2025:DHC:7501, has held, in a similar factual matrix when the service was abruptly terminated while the sexual harassment complaint was pending, that the termination was vitiated by *mala fides*, observing that the employer had resisted scrutiny through technical objections while simultaneously terminating the services of the complainant during the pendency of proceedings, and that her inability to discharge duties was a direct consequence of the employer's own conduct. In the connected SLP No. 20089/2021, the Supreme Court granted interim relief of regular emoluments to the aggrieved employee pending litigation, in the interest of equity.
- 29.12. The Appellant's reliance on ***Debjani Sengupta*** (*supra*) is misplaced, as that case concerned a proper ICC inquiry forming the basis for disciplinary action. In the present case, however, the absence of any fair inquiry stands conclusively established by the Appellate Tribunal. The Appellate Order neither sanctions action founded on a vitiated inquiry nor permits retaliation against the Respondent. Section 28 of the POSH Act cannot be invoked in a manner that operates in derogation of the POSH Act itself or legitimatises the consequences of the employer's own failure.



- 29.13. Further, the Appellant has incorrectly sought to convert the present matter into a service dispute to defeat the protective framework of the POSH Act, and its reliance on **Abraham Mathai** (*supra*) is misplaced. The said judgment is distinguishable on facts and has no application to the present case, particularly in view of the categorical findings and directions of both the Appellate Tribunal and learned Single Judge in the Impugned Judgement.
- 29.14. The Appellant's reliance on **Praveen VS** (*supra*) is also misconceived, as that case concerned disciplinary action against the perpetrator to secure a safe workplace following continued harassment. In the present case, however, despite repeated complaints to the ICC and the Chairman and Managing Director, the Appellant failed to act against the alleged perpetrator and instead proceeded against the Respondent.
- 29.15. In view of the foregoing submissions, it was submitted that the present Appeal deserves to be dismissed with costs and the Impugned Judgment be upheld.

ANALYSIS AND FINDINGS

30. We have heard learned Senior Counsel for the Appellant, learned *Amicus Curiae* and the Respondent-in-person, and have perused the material placed on record.

31. At the outset, we may observe that workplace sexual harassment is a form of gender discrimination and violates a woman's fundamental rights to equality and life guaranteed under Articles 14, 15 and 21 of the Constitution. It creates an insecure and hostile work environment and the statutory



mechanisms under the POSH Act are designed to prevent and redress such conduct, which may have a lasting adverse impact on the professional growth and development of women. It is incumbent upon every employer to ensure a proper fact-finding inquiry rather than dismissing the allegations in a cursory manner.

32. The findings recorded in the Appellate Order fortify the aforesaid position. The Appellate Tribunal held that the ICC Order had been passed without affording the Respondent a fair opportunity of hearing and without conducting a proper inquiry into the allegations levelled by her. The said findings have attained finality since the Appellant has decided to not challenge the Appellate Order and having constituted a fresh ICC in compliance therewith.

33. In view thereof, the following issues arise for determination:

- I. Whether the Service Rules are subordinate to the provisions of POSH Act?
- II. Whether the Respondent's continued leave of absence from work during pendency of W.P.(C) 1841/2021 was justified in view of the alleged hostile work environment and the absence of a duly constituted ICC?
- III. Whether the Appellant was justified in treating the Respondent's leave of absence from work as deemed VCS despite her allegations of sexual harassment and a hostile work environment?



ISSUE NO. I: Whether the service rules are subordinate to the POSH Act?

34. Section 28 of the POSH Act is clear and unambiguous in its import. A plain reading of the provision reflects the legislative intent underlying its incorporation in the statute. Section 28 of the POSH Act reads as under:

“28. Act not in derogation of any other law.—The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force.”

35. Section 28 of the POSH Act expressly provides that the provisions of the POSH Act shall operate “in addition to” and “not in derogation of” any other law for the time being in force. The provision, therefore, makes it clear that the POSH Act does not override or displace other applicable legal regimes, including the governing service rules. The employer’s power to suspend, discipline or terminate an employee in accordance with the applicable service rules remains independent of the POSH Act.

36. Therefore, merely by reason of the filing of a complaint under the POSH Act or the constitution of an ICC, a complainant does not cease to be governed by the terms of service or the applicable service rules. An employer is entitled to proceed in accordance with the applicable service rules. However, such action must not be in derogation of the POSH Act, nor can it be discriminatory, retaliatory or punitive on account of the complaint made under the POSH Act by the employee. Where allegations of misconduct or breach of service rules are raised against an employee, who has filed complaint under POSH Act, the employer must ensure that the proposed action is *bona fide*, independently justified, and not inextricably linked with or prompted by the complaint of sexual harassment. A mechanical or rigid



application of service rules against a complainant, who alleges sexual harassment and a hostile work environment, without due regard to the surrounding circumstances, would defeat the object of the POSH Act and may operate as a conduit for retaliation.

37. Accordingly, the finding of learned Single Judge in the Impugned Judgment requires clarification to the limited extent that the Service Rules are not subordinate to the POSH Act, however, any action taken under the Service Rules during the pendency of proceedings arising under the POSH Act must be *bona fide*, independently justified, and wholly unconnected with such proceedings and such action cannot be retaliatory or punitive merely on account of the initiation or pendency of the proceedings arising out of a complaint under the POSH Act.

ISSUE NO. II: Whether the Respondent's continued leave of absence from work during pendency of W.P.(C) 1841/2021 was justified in view of the alleged hostile work environment and the absence of a duly constituted ICC?

38. Since the Appellate Order has attained finality and has not been assailed by the Appellant, the present issue must be examined on the premise that the ICC Order was passed in derogation of the POSH Act and in violation of the principles of natural justice.

39. In view of the Appellate Order, it stands conclusively established that the grievances raised by the Respondent had remained unresolved at the relevant point of time. Therefore, it is required to be considered as to whether the Respondent's continued absence from work could be justified on account of the alleged hostile work environment during the pendency of W.P.(C)



1841/2021 challenging the ICC Order and in absence of a duly constituted ICC under the POSH Act.

40. It is an admitted position that the POSH Complaint filed by the Respondent was withdrawn by her pursuant to an amicable conciliation arrived at between the parties and, consequently, no fact-finding inquiry was conducted by the ICC. The case of the Respondent is that, notwithstanding such conciliation, she continued to be subjected to harassment and a hostile work environment, as a result whereof she was unable to attend office.

41. The Respondent has further submitted that she was, at all material times, willing to discharge her duties, but that the hostile work environment allegedly created by the officials of the Appellant rendered it impossible for her to do so and compelled her to remain continuously absent from work. Despite repeated requests by the Respondent for constitution of an ICC to inquire into her grievances, the ICC constituted by the Appellant dismissed her complaints on the ground that conciliation had already been arrived at between the parties and that no new facts had been disclosed warranting conducting a fresh inquiry by ICC.

42. If after the conciliation arrived at between the parties in respect of the POSH Complaint, the Respondent continued to face harassment and a hostile work environment, the Appellant was duty-bound to constitute an ICC to inquire into the POSH Complaint and return the finding after conducting the inquiry to ensure that the grievances of the Respondent were addressed in accordance with POSH Act as held by the Appellate Tribunal.

43. In absence of duly constituted ICC, the Respondent was unable to approach the ICC under Section 12 of the POSH Act for interim measures



during the pendency of the POSH Complaint. Section 12 of the POSH Act reads as under:

“12. Action during pendency of inquiry.—

(1) During the pendency of an inquiry on a written request made by the aggrieved woman, the Internal Committee or the local Committee, as the case may be, may recommend to the employer to—

(a) transfer the aggrieved woman or the respondent to any other workplace; or

(b) grant leave to the aggrieved woman up to a period of three months; or

(c) grant such other relief to the aggrieved woman as may be prescribed.

(2) The leave granted to the aggrieved woman under this section shall be in addition to the leave she would be otherwise entitled.

(3) On the recommendation of the Internal Committee or the Local Committee, as the case may be, under sub-section (1), the employer shall implement the recommendations made under sub-section (1) and send the report of such implementation to the Internal Committee or the Local Committee, as the case may be.”

44. Hence, the alleged unauthorised absence by the Respondent was inextricably connected with the pending proceedings arising out of the POSH Act. Therefore, the submission advanced by learned Senior Counsel for the Appellant that the Respondent failed to invoke Section 12 of the POSH Act, which provides for leave as an interim measure, cannot be accepted.

45. Section 12 of the POSH Act applies only where an inquiry is pending. In the present case, despite repeated requests made by the Respondent, the Appellant failed to establish a proper fact-finding mechanism. Accordingly, the Respondent could not have sought any interim relief under Section 12 of



the POSH Act when the Appellant had persistently failed to discharge its statutory obligation to inquire into her grievances in accordance with law.

46. In her Reply to the First VCS Notice, the Respondent stated that she was constrained to remain absent on account of the unresolved hostile work environment allegedly faced by her. Therefore, the principle of ‘no work, no pay’ is not applicable in circumstances where the Respondent’s absence is alleged to have been occasioned by the Appellant’s own failure to remedy the hostile work environment or to conduct a proper fact-finding inquiry into the allegations raised by her.

47. An organisation such as the Appellant was expected to act with greater sensitivity and maturity to resolve the matter by conducting a proper inquiry, rather than allowing the dispute to escalate and remain unresolved for several years. While unauthorised absence by an employee cannot ordinarily be justified, where such absence is directly attributable to a hostile work environment created or perpetuated by the employer’s failure to conduct a proper fact-finding inquiry as mandated under the POSH Act, the employee cannot be penalised by termination of her services during the pendency of proceedings arising under the POSH Act.

48. In the peculiar facts and circumstances of the present case, we are of the considered view that the Respondent’s absence cannot be characterised as wholly unjustified. The failure of the Appellant to conduct a proper inquiry into the grievances raised by the Respondent deprived the Respondent of an effective statutory remedy. In the absence of a pending inquiry before a duly constituted ICC, the Respondent could not have meaningfully sought interim relief, including leave, under Section 12 of the POSH Act. Accordingly, the



Respondent ought not to be penalised for consequences attributable to the Appellant's own lapses.

ISSUE NO. III: Whether the Appellant was justified in treating the Respondent's leave of absence from work as deemed VCS despite her allegations of sexual harassment and a hostile work environment?

49. The Appellant contended that, notwithstanding several opportunities afforded to the Respondent to re-join duty, including pursuant to the First VCS Notice and the Second VCS Notice, the Respondent failed to report for duty and, therefore, the Appellant was justified in passing the VCS Order.

50. Submission of learned Senior Counsel for the Appellant is that the Respondent had a history of unauthorised absence from duty and that the action taken by the Appellant was independent of the allegations of sexual harassment and hostile work environment raised by the Respondent. However, the said submissions do not materially advance the Appellant's case in the present Appeal, which is confined to examining whether the absence forming the basis of the VCS Order was justified in the facts and circumstances of the case.

51. Although the Respondent had filed an application seeking stay of the VCS proceedings during the pendency of W.P.(C) 1841/2021, the Appellant voluntarily kept the VCS proceedings in abeyance pending adjudication of the said writ petition. However, immediately upon dismissal of W.P.(C) 1841/2021 on 09.04.2024 and LPA 417/2024 on 22.05.2024, the Appellant issued the Second VCS Notice on 30.07.2024. The Respondent replied to the Second VCS Notice on 26.08.2024, which was received by the Appellant on 02.09.2024. On the very same day, the Appellant passed the VCS Order



deeming the Respondent to have voluntarily ceased from service in terms of the Second VCS Notice and the IDBI Service Rules. At the time of passing the VCS Order, the Appellant was aware of the pendency of the proceedings before the Appellate Tribunal under Section 18 of the POSH Act pursuant to order passed W.P.(C) 1841/2021 and of the direction issued in LPA 417/2024 that in the event such proceedings were instituted within the territorial jurisdiction of this Court and were found maintainable, the same would be disposed of in accordance with law as expeditiously as possible, preferably within six months.

52. In view thereof, the Appellant's submission that the VCS proceedings had no correlation with the POSH proceedings cannot be accepted. Ascending circumstances of the instant case do not persuade us to take such a view. The Appellant itself kept the VCS proceedings in abeyance during the pendency of W.P.(C) 1841/2021, thereby recognising the connection between the Respondent's absence and the proceedings arising out of the POSH Complaint. Having adopted such a course, the Appellant cannot now contend that the VCS proceedings were wholly unconnected with, the POSH proceedings.

53. Having awaited the outcome of W.P.(C) 1841/2021, it was incumbent upon the Appellant to have waited for the outcome of the proceedings before the Appellate Tribunal as well, since those proceedings arose in continuation of the challenge to the ICC Order, learned Single Judge having relegated the Respondent to the statutory appellate remedy. The Respondent's absence from work, therefore, could not have been viewed in isolation, divorced from the surrounding circumstances in which such absence occurred.



54. Given that the freshly constituted ICC is yet to return findings on the merits of the dispute, it cannot, at this stage, be held that the Respondent's absence from duty was wholly unconnected with, the POSH Complaint. The Appellant was under a statutory obligation to provide a safe working environment to the Respondent and to ensure that her constitutional rights were not impaired. Instead, the Appellant proceeded with the VCS action during the pendency of the appellate proceedings and terminated the Respondent's services by passing the VCS Order before the Appellate Tribunal could render its decision. The timing of the VCS Order, therefore, is conspicuous.

55. The Respondent in her Reply to the First VCS Notice, as well as in reply dated 26.08.2024 to the Second VCS Notice, consistently maintained that her absence from work was attributable to the extremely hostile work environment allegedly faced by her. The Respondent was placed in a situation which, according to her, had become untenable on account of the discrimination faced by her, compounded by the absence of any effective assistance or redressal from the Appellant. In such circumstances, the Respondent's absence from work cannot be characterised as deemed VCS. To examine the Respondent's absence in isolation, divorced from her POSH Complaint and the hostile work environment allegedly faced by her, would defeat the very object of the POSH Act, namely, to ensure that the professional growth and dignity of women are not impaired by sexual harassment at the workplace.

56. Clause 25(A), Chapter V of the IDBI Service Rules prescribes the procedure for treating an employee as having voluntarily ceased from service.



It provides that where an employee to whom a VCS notice is issued neither complies with the first VCS notice within the prescribed period nor furnishes a satisfactory explanation for his or her absence, a second VCS notice is required to be issued forthwith. In the present case, the First VCS Notice was issued to the Respondent on 30.08.2021, whereafter she submitted her Reply dated 17.09.2021. The Appellant neither communicated whether the explanation furnished by the Respondent was found satisfactory nor issued the Second VCS Notice within the time contemplated under Clause 25(A), Chapter V of the IDBI Service Rules. The Second VCS Notice was issued only on 30.07.2024, after a lapse of nearly 3 years. It is, therefore, evident that the Appellant itself did not adhere to the procedure prescribed under Clause 25(A), Chapter V of the IDBI Service Rules, and invoked the said provision selectively and belatedly.

57. The Respondent's absence from work, therefore, seems to be attributable to the Appellant's failure to address her grievances in accordance with law. The Appellate Order has conclusively held that the ICC Order was not compliant with the POSH Act and that the Respondent had been denied a fair opportunity to have her grievance adjudicated before a duly constituted ICC. In the face of such facts, it cannot be held that the Respondent voluntarily abstained from work with a view to drawing remuneration without rendering service.

58. At the very least, the Appellant ought to have awaited the outcome of the proceedings before the Appellate Tribunal prior to passing the VCS Order having voluntarily awaited the outcome of W.P.(C) 1841/2021 and knowing fully well that the proceedings before the Appellate Tribunal would be



completed by end of November 2024 in view of the order passed by the Coordinate Bench of this Court in LPA 417/2024. Therefore, since the ICC Order has already been set aside and a fresh ICC has been constituted, the VCS Order terminating service of the Respondent cannot be sustained.

59. Accordingly, we are of the considered view that, having regard to the absence of any effective assistance or redressal from the Appellant in respect of her complaint under the POSH Act, the Respondent appears to be constrained to remain away from the workplace until her grievance under the POSH Act was duly considered in accordance with law. In such circumstances, the Appellant was not justified in treating the Respondent's absence from work as deemed voluntary cessation of service.

CONCLUSION

60. In view of the foregoing discussion, we find no infirmity in the conclusions arrived at by learned Single Judge in the Impugned Judgment. However, having regard to the fact that the Impugned Judgment has directed payment of full back wages to the Respondent, we deem it appropriate to waive the costs imposed by learned Single Judge.

61. Accordingly, we uphold the directions issued in the Impugned Judgment, save and except imposition of the costs and clarify that the Service Rules are not subordinate to the POSH Act provided that any action taken under the Service Rules during the pendency of proceedings arising under the POSH Act must be *bona fide*, independently justified, and unconnected with such proceedings, and cannot be retaliatory or punitive in nature. In the facts and circumstances of the present case, the Appellant was not justified in treating the Respondent's absence from service as deemed voluntary cessation



during the pendency of proceedings arising out of the POSH Complaint, since such absence appears to be directly and inextricably connected with the said proceedings.

62. We further clarify that the observations made hereinabove and in the Impugned Judgment shall be construed only for the purpose of adjudicating the controversy arising in the Writ Petition and in the present Appeal. The proceedings before the newly constituted ICC shall be conducted independently and shall not be influenced by any observations made hereinabove or in the Impugned Judgment. We also direct that the newly constituted ICC shall conclude the proceedings as expeditiously as possible.

63. Accordingly, the present Appeal, along with all pending Applications, stands dismissed with the aforesaid clarification.

TEJAS KARIA, J

DEVENDRA KUMAR UPADHYAYA, CJ

AUGUST 24, 2026

N/AK

After the Judgment was pronounced, a request was made by learned Counsel for the Appellant to stay the Judgment till the Appellant takes legal recourse to challenge the same. However, having regard to the facts and circumstances of the case, the prayer is declined.

TEJAS KARIA, J

DEVENDRA KUMAR UPADHYAYA, CJ

AUGUST 24, 2026/sms