



2025:DHC:7136-DB



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

+ W.P.(C) 11219/2021

J¹

.....Petitioner

Through: Mr. Nikhil Bhardwaj, Adv.

versus

UNION OF INDIA AND ORS

.....Respondents

Through: Ms. Shiva Lakshmi, CGSC
with Mr. Madhav Bajaj and Ms. Katyayani
Joshi, Advs.

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT (ORAL)

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20.08.2025

C. HARI SHANKAR, J.

1. On 19 May 2017, the petitioner, who was a wrestler, made a complaint before the respondent against her coach, Mahavir Prasad, alleging sexual harassment. Following the said complaint, the respondent constituted an Internal Complaints Committee² in accordance with the judgment of the Supreme Court in *Vishakha v State of Rajasthan*³, under the chairpersonship of one Ms. Nidhi Singh, to look into the complaint.

2. The first ICC arrived at a finding that the complaint was false.

¹ Anonymized in view of Section 16 of the Sexual Harassment of Women at Workplace Act, 2013

² "the first ICC" hereinafter

³ (1997) 6 SCC 241



Based thereon, the petitioner was visited with a charge sheet dated 21 September 2017 proposing to impose penalty on her for having levelled false allegations against Mahavir Prasad. That charge sheet came to be withdrawn on 12 March 2020.

3. In the interregnum, on 20 April 2018, a second ICC was constituted by the respondent to re-examine the petitioner's complaint, under the chairpersonship, this time, of one Ms. Navneet Kaur. Mr. Nikhil Bhardwaj, learned Counsel for the petitioner submits that the petitioner was never informed of the constitution of the second ICC, and was never involved in the proceedings of the second ICC. It is necessary, in this context, to reproduce the assertion to this effect as contained in para 34 of the writ petition and the reply of the respondent thereto, thus:

Para 34 of the Writ Petition

“34. That no intimation whatsoever regarding constitution of 2nd Sexual Harassment Committee was given to petitioner. Further petitioner was not given any opportunity to put her defence/plea before second Sexual Harassment Committee. And without even calling petitioner or any other witnesses, 2nd Sexual Harassment Committee opined that charges levelled against the coach stands unproved and held, both petitioner and her coach are liable to be proceeded for not maintaining the dignity of their post.

That till today it is a dilemma whether 2nd Sexual Harassment Committee conducted investigation de Novo, or proceeded further from where 1st Sexual Harassment Committee left its investigation or initiated investigation from somewhere in between.”

Reply of the Respondent to Para 34 of the Writ Petition

“34. That in reply to Para no. 34 it is submitted that Ms. Navneet Kaur, DC/LR was appointed as Chairperson in place of Ms. Nidhi Singh, AC. Since, the statements of all the concerned personnel were available in the file and hence the enquiry proceeded further.



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Therefore, Ms. Navneet Kaur, DC/LR completed the preliminary enquiry as well as rectified the observations and re-submitted report to higher formation, which was finally accepted by the Competent Authority. A copy of the aforesaid report was supplied to the petitioner vide letter No.24792-(E) dated 20.07.2020 under proper receipt. Hence, the question for conducting second enquiry on the complaint of the petitioner does not arise.

4. Thus, the respondent has not denied the assertion, in para 34 of the writ petition, that the petitioner was in fact never informed of the constitution of the second ICC and was never involved in the proceedings by the second ICC.

5. The second ICC also arrived at a finding that the complaint of the petitioner was false.

6. Based on the said finding, the petitioner was visited with a second charge sheet dated 8 June 2020 issued by the Assistant Commandant as a Disciplinary Authority, proposing to take disciplinary action against her for having levelled false allegations against Mahavir Prasad. The translated copy of the second charge copy reads thus:

“MEMORANDUM

Force Number: ***** Rank/Position: Woman Constable / GD –
***** Unit: IVF RT Composite Coy, CGBS, New Delhi You are hereby informed that it is proposed to initiate disciplinary proceedings against you under Rule 37 of the BSF Rules, 2001. The details of the allegation against you are as follows:

Article of Charge:

While serving in IVFRT Composite Coy, Force Number *****, Woman Constable / GD ***** lodged a written complaint of sexual harassment in May 2017 against Inspector / Works –



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Mahavir Prasad (Wrestling Team Coach) during your attachment at BSF Unit IPCGCL, New Delhi. A committee was constituted to investigate the complaint. The inquiry committee concluded that the complaint of sexual harassment made against Inspector / Works – Mahavir Prasad (Wrestling Team Coach) was not substantiated. The committee also recommended that appropriate disciplinary action be taken against both Inspector / Works – Mahavir Prasad and Woman Constable / GD *****. Being a member of an armed and disciplined force, the act committed by you displays indiscipline. Hence, the charge is leveled.

02. You, Force Number ***** , Woman Constable / GD ***** , IVFRT Composite Coy, CGBS, New Delhi, are hereby given an opportunity to submit a written representation in your defense regarding this memorandum.

03. If your written representation is not received within 10 days from the date of receipt of this memorandum, it will be presumed that you do not wish to respond, and a unilateral final order will be passed against you.

04. Acknowledgment of this memorandum must be ensured.

Assistant Commandant / GBS
IVF RT Company, New Delhi

To: Force Number ***** Woman Constable / GD
***** IVFRT Composite Coy,
CGBS, New Delhi

Through: Company Commander,
IVF RT Company, New Delhi”

7. Clearly, therefore, the second charge sheet was premised on the report of the second ICC, no copy of which was provided to the petitioner.

8. On the ground that Rule 37⁴ of the Central Industrial Security

⁴ 37. Procedure for imposing minor penalties –

(1) No order imposing any of minor penalties specified in rule 34 shall be made except after



Force Rules, 2001⁵ did not mandate the holding of an enquiry where the penalty proposed was minor, no enquiry was held against the petitioner qua the second charge sheet. By order dated 22 June 2020, however, the petitioner was visited with a minor penalty of withholding of an increment for one year without cumulative effect.

9. The petitioner challenged the said decision by way of appeal and review, unsuccessfully.

10. Aggrieved thereby, the petitioner has approached this Court.

11. We have heard Mr. Nikhil Bhardwaj, learned Counsel for the petitioner and Ms. Shiva Lakshmi, learned CGSC for the respondents at length.

12. Though Mr. Bhardwaj also attempted to argue on the aspect of sexual harassment, we do not deem it necessary to enter into the said quagmire. The facts are clear.

13. Para 34 of the writ petition, juxtaposed with the corresponding paragraph of the counter-affidavit filed by the respondents' makes it clear that the petitioner was never allowed to participate in the

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- (a) informing the enrolled member in writing of the imputations of misconduct or misbehaviour on which it is proposed to be taken and giving him a reasonable opportunity of making such representation as he wishes to make against the proposal;
 - (b) holding an inquiry, if the disciplinary authority so desires, in the manner laid down in sub-rules (3) to (22) of rule 36;
 - (c) taking the representation, if any submitted by the enrolled member under clause (a) and the record of inquiry, if any, held under clause (b) into consideration; and
 - (d) recording the findings on each imputation of misconduct or misbehaviour;

⁵ "the CISF Rules" hereinafter



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proceedings of the second ICC and was never provided any copy of the report of the second ICC, despite the fact that it was the said report which constituted the entire basis of the second charge sheet dated 8 June 2020. As no enquiry was held following the second charge sheet, the petitioner effectively got no opportunity whatsoever to respond to the allegations on the basis of which she was ultimately visited with the punishment.

14. It was only *after* the punishment was awarded on 22 June 2020, the petitioner was provided a copy of the second ICC report on 20 July 2020. Needless to say, the providing of second ICC report, at that stage, was a complete futility, and of no purpose whatsoever. The petitioner was effectively presented with a *fait accompli*.

15. The entire proceedings in this case have, therefore, been conducted in abject violation of the principles of natural justice and fair play.

16. The respondent was duty bound to provide, to the petitioner, a copy of the second ICC report. Having not done so, and having failed to hold any enquiry thereafter, so that the petitioner was given no opportunity to defend the allegation against her in the second charge sheet, we are of the considered opinion that the order dated 22 June 2020 imposing punishment on the petitioner cannot sustain in law or on facts.

17. Accordingly, without entering into any other aspect of the



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matter, we quash and set aside the order dated 22 June 2020, imposing punishment on the petitioner as well as the orders dated 19 August 2020 and 17 March 2021 whereby the appeal and revision successively preferred by the petitioner thereagainst were dismissed. Consequential reliefs to the petitioner would follow.

18. The writ petition stands allowed to the aforesaid extent with no orders to costs.

C. HARI SHANKAR, J

OM PRAKASH SHUKLA, J

AUGUST 20, 2025

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