



सत्यमेव जयते

न्यायालय मुख्य आयुक्त विकलांगजन
COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES
विकलांगजन सशक्तिकरण विभाग / Department of Empowerment of Persons with Disabilities
सामाजिक न्याय और अधिकारिता मंत्रालय / Ministry of Social Justice and Empowerment
भारत सरकार / Government of India

Case No.: 7673/1023/2017

Dated: 28 09.2017
Dispatch No.....

In the matter of :

Ms. Vandana Garg,
B-61, Central Apartments,
Dayal Das Road,
Vile Parle East,
Mumbai - 400 057

R3759

.....Complainant

Versus

The Chairman and Managing Director,
Central Bank of India,
Chandermukhi Building,
Nariman Point,
Mumbai - 400 021

R3760

.....Respondent

Date of Hearing : 10.07.2017 and 22.08.2017

Present :-

1. Ms. Vandana Garg, Complainant, Capt (IN) H.N. Singh (Retd.) and Shri K.K. Saxena for complainant.
2. Mrs Ekta Chaudhary, Advocate, Shri B. Ashok, General Manager-HRD and Shri Sanjay Kumar, Chief Manager (Law), on behalf of Respondent.

ORDER

The above named complainant, a person suffering from 67% locomotor disability had filed a complaint dated 13.02.2017 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 hereinafter referred to as the Act, against her transfer, harassment and alleged sexual harassment.

2. The complainant submitted that she has put up more than 32 years of service with the Central Bank of India. Presently, she is posted as a Manager in Mumbai. Her complaint is regarding regular harassment at her workplace since past more than two decades owing to stigma and stereotypes attached to her disability status and gender and also repeated sexual harassment. While she was posted at Sir Sorabji Pochkhanwalla Banker's Training College of the bank as Member Faculty (e-learning) since 07.10.2013, she was subjected to all kinds of harassment there

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including sexual harassment through the canteen boy at the training centre. In the past also, she was harassed by the staff indirectly by taking the help of the tea vendor and sub staff. On 09.10.2015, she was harassed by the canteen boy named Debashish. She was harassed on several occasions. She made complaints with the Vice Principal Shri B.Y. Joshi. When the college authorities did not take any action, she reported the matter to the Chief Liaison Officer for persons with disabilities, who was a General Manager Head Office. When she did not receive any help from the Chief Liaison Officer, she lodged a complaint with the Police at Juhu on 14.02.2016. After regular follow up with the Police authorities, she succeeded in lodging a Chargesheet which was filed, but nothing happened in the matter even after a lapse of one year. She further submitted that ICC was finally constituted in her office on her complaint of sexual harassment after direction from CAW Cell. She was harassed more intensely without fear and given singular transfer orders to a branch as a punishment for reporting harassment. Due to this harassment and victimization, she is unable to join office since and is compelled to sit at home for the past many months. She was denied a flat inside the college premises with a Lift despite ample availability though many able bodied staff were accommodated without even entitlement in faculty quarters. After requesting for many months, she was allotted a flat on sixth floor at Vile Parle, where the lift remains in disorder frequently.

The complainant further submitted that she was not nominated to faculty development programs commenced in college itself. Though her work as faculty e-learning was to develop content and prepare the e-learning modules, which was not allowed to her, she was instead asked by the Principal Shri Arun Kapoor to take session every day for both : Dena Bank and Central Bank.

3. The matter was taken up with the respondent under Section 59 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 vide this Court's letter dated 22.03.2017.

4. The General Manager-HRD, Central Bank of India vide their letter no. CO/HRD/SAD/2017-18/251 dated 16.05.2017 submitted that the complainant while being posted at their Sir Sorabji

Pochkhanwalla Banker's Training College, alleged an incidence of sexual harassment by one canteen boy, who was employed by the canteen contractor. The Internal Complaints Committee (ICC) constituted at their Central Office under the sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 made an enquiry into the complaint instituted by the complainant. During the proceeding of the ICC, the complainant started making complaints against 3 lady members including the chairperson of the Committee and the external lady member, who herself was a person with disability and happened to be the founder member of an N.G.O. dealing with persons with disabilities. Subsequently, the external lady member requested to release her from the Committee which was agreed to and she was replaced by another lady member of a leading N.G.O.. The ICC after holding the enquiry found that the complaint was not proved. The Committee, however, gave certain suggestions for SPBT College among others like maintaining complaint register, to organize a short training by the Vendor to the Canteen staff regarding hospitality service, delivery and manners. The SPBT College has confirmed about compliance of the suggestions given by the ICC. As per the respondent, the allegation by the complainant that she has been given frequent transfer orders, is not true. Looking at the disability of the complainant, the Bank has always taken care of her postings at a particular place. Recently, the complaint was posted at SPBT College, Mumbai as in-Charge of e-learning. The respondent further stated that the facilities available to all staff at SPBT College were equally provided to the complainant and there is no discriminatory treatment with any of the staff. The respondent further stated that the Management of the Bank had been quite sensitive in dealing with her complaint as well as in transferring her to a Branch which is nearer to her residence (quarters allotted by the bank) despite her habit of raising complaints frequently.

5. The complainant vide her email dated 12.05.2017, submitted that the Bank is not responding/acknowledging any of her communications and has not taken any judicious action till date in her matter till date. She submitted that most of her abled bodied colleagues including staff and faculty at SPBT College are enjoying stay even after transfer and promotions and undue conveniences including quarters meant for faculty. The key person who is behind all this harassment is posted since past nine years even after retirement and has been given further extension for two years.

6. A personal hearing in the matter was scheduled on 10.07.2017 @ 12:00 Hrs.

7. During the hearing on 10.07.2017, the complainant reiterated the submissions as brought out at para 2 above. She further submitted that she had been transferred 33 times in her 32 years of service with the Bank. The key perpetrator in all harassment to her at SPBI College Mumbai has been working there since past nine years in violation of Officer's Service Rules (OSR) even after retirement and has been given further extension of two years despite clear cut responsibility in sexual harassment to her at College. A female faculty Ms. Poppy Sharma promoted as AGM on the same seat and same place against OSR, though there was no such post of AGM Faculty. She is further given the post of Principal after retirement of the Principal Mr. Arun Kapoor, which was a DGM post. Ms. Poppy Sharma has been a party to all her harassment. Ironically, the Vice Principal cadre has been elevated to DGM from AGM. The IT Officer, Ms. Preeti Pandey has been retained in college after transfer to DIT, Belapur despite being on maternity leave for one year and is still working at SPBT College and despite his overstay of four years as faculty. Faculty SM. Mr. Ajay Koul has also been promoted and retained in the college against OSR in the same manner. Three sub staff have been transferred since past two years but not relieved from the college till date. She has been removed and transferred singularly though the post of Faculty e-learning is still lying vacant. She submitted that Shri O.P. Sharma, GAD Incharge is still in bank's service after his retirement six months back and residing in the same official quarter to ensure all harassment and trouble to her in the quarters by influencing and intimidating guards and other workers. She requested this Court that she may be posted in the administrative office in Delhi so that she can escape from the harassment from the Bank officials in Mumbai.

8. During the hearing the representatives of Respondent submitted that they have not received any complainant against Shri O.P. Sharma. The Learned Counsel for the Respondent told the Court that if they receive a specific complaint in writing against Shri O.P. Sharma, they will definitely take up the matter with the concerned person. The Complainant was in the Training Institute in Mumbai during the period 2013-2016 and now the Bank has transferred her to a Branch which is only 1 Kms distance from her residence. The Training Centre is about 4 Kms from her apartment. The Internal Complaints Committee (ICC) has already been constituted at their officer

under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 and have already submitted its report and the complainant's stand was found not proved. The Respondent assured this Court that the Bank will consider posting of the complainant to their administrative office in Delhi.

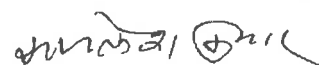
9. After the hearing, the Court advised the complainant to join the Bank immediately so that she can get salary to maintain her livelihood. The Respondent was advised to provide barrier free environment to the complainant besides ensuring the safety and security of the Complainant who is a person with disability, at the work place. The Respondent was also advised to look into the complaint of the Complainant, specifically in view of her allegation that she was transferred deliberately and maliciously 33 times during her service of 32 years with the Respondent. The Respondent was also asked to look into the allegation of Complainant that she had been continuously harassed by one of the Bank employee named Shri O.P. Sharma besides exploring the feasibility of the Complainant to be transferred to New Delhi. The Respondent was apprised to come prepared with their reply on above points during the next date of hearing.

10. The case was adjourned to 22.08.2017 at 02:30 p.m.

11. During the hearing on 22.08.2017 the complainant submitted that she is facing hardships and humiliation at the Branch of the Bank due to the stigma attached to her being a person with disability which is the basis of discrimination, exclusion and humiliation. She requested the Court about the discrimination of her legitimate rights and the atrocities she has faced during her posting at the Branch Office Vile Parle.

12. During the hearing, the learned Counsel/representative of the respondent submitted a photocopy of the letter dated 21.08.2017, issued by the General Manager (HRD), Central Bank of India to the Zonal Office HRD Dept., MMZO inter-alia with the direction that Ms. Vandana Garg, the complainant be relieved from her present post only after completion of any disciplinary proceedings which may have been initiated / being contemplated against her. She may also be instructed to report at Delhi Zonal Office for her further placement to any administrative office in Delhi city. They also submitted a copy of Staff Circular No. 790 dated 07.02.2017 issued to all Branches/Offices regarding the 'Norms for Transfer of Mainstream Officers in Scale-I, II and III- Revised Document Incorporating Amendments'.

13. The Court took on record, the decision taken by the respondent regarding further placement of the complainant to any administrative office in Delhi city as requested by her. As regards, the alleged discrimination, humiliation and atrocities on the complainant, as stated by the complainant, this Court, within its ambit and scope of jurisdiction exercisable under the Rights of Persons with Disabilities Act, 2016 and relevant rules, advised the respondent to be more sensitive towards persons with disabilities and to ensure a conducive and accessible work environment for the complainant in specific and for the persons with disabilities, in general and provide her a level playing field, so that no rights, as provided under the Rights of Persons with Disabilities, Act, 2016, are infringed.



(Dr. Kamlesh Kumar Pandey)
Chief Commissioner
for Persons with Disabilities