

CS No. 57564/16

Archarna Sharma Vs. Lalitendu Samanta & Ors.

23.07.2018

Present: Plaintiff in person.

Shri Nitin Soni, Shri Deepjyot Singh and Shri Kewin Kunjappy,
Ld. Counsel for defendant no.1.

Shri B K Tomar, Ld. Proxy Counsel for the defendant No.2

Shri Saket Singh and Ms. Sangeeta Singh, Ld. Counsel for
defendant no.3.

Ms. Surabhi Diwan, Ld. Counsel for defendant no.4.

Plaintiff has filed documents related to proof of service of
rejoinder to miscellaneous applications.

Arguments heard on the application filed under Order 11 Rule
14 CPC filed by plaintiff thereby seeking production of documents from
defendant no.1. It is submitted by plaintiff that it is already mentioned by
defendant no.1 in his written statement in para 20 that he has obtained his call
records from the mobile service provider. Hence he is in possession of his
call records. Hence, he may be directed to produce the call record from June,
2011 till December, 2011.

It is submitted by Id. counsel for defendant no.1 that he will
check with his client and whatever is available with him, they will file the same
on record.

I have heard both the parties and gone through the record.

Since it is specifically admitted by defendant no.1 in para 20 of

his written statement that he has obtained call records from the relevant mobile service provider, he is directed to place on record the call record from the period June, 2011 till December, 2011 on the next date of hearing. Application accordingly disposed off.

Arguments heard on the application under Order 11 Rule 14 CPC for seeking production of documents by defendant no.3 which was filed on 01.10.2015. The first document of which production is sought is original signed transfer letter dated 11.12.2012. Copy of this letter is already filed on record by the plaintiff but the original is lying with the defendant. Hence, in order to prove the original, defendant is directed to produce the original document at the time of evidence on record.

As far as documents mentioned at No.C, D and E i.e. the documents pertaining to the inquiry before defendant no.4, I have gone through the record of the inquiry report filed on record by defendant no.4. It is noted that daily ordersheets and some other documents which might have been maintained at the time of the inquiry or the notices which might have been sent to the parties/witnesses to appear, do not seem to be on record. Ld. Counsel for defendant no.3 submits that as per the order of this Court, he has filed complete report of the Sexual Harassment Committee along with CD. However he will seek instructions from defendant no.3 whether any other document pertaining to the said inquiry is available with them.

It is submitted by Ld. counsel for defendant no.4 that they have already given complete record to defendant no.3 and they have nothing in their possession now.

Put up for clarifications on this issue by defendant no.3 on the next date of hearing.

As far as document which are mentioned at point b i.e. copy of receipt given by plaintiff for her transfer to Strategy Planning Group dated 01.07.2011 is concerned, the same is not part of the pleading. It is not mentioned by plaintiff anywhere in her pleading about the said document nor any reference to the said document is made. Hence, the same is beyond the pleading and hence request for production of this document is disallowed.

As far as production of documents mentioned at point 'f' is concerned i.e. posting being floated on the internet regarding the SPG is concerned, it is the case of plaintiff that defendant no.2 in para 6 of his written statement has mentioned that a proper procedure was followed while transferring plaintiff to SPG department. The same is denied by plaintiff in replication. The same is not averment of defendant no.3 in his written statement that proper procedure was followed. The onus is on defendant no.2 to prove that proper procedure was followed as is mentioned in his written statement.

It is not the case of defendant no.3 and is not mentioned in written statement of defendant no.3 that any such internal floating of job vacancy had taken place. In the circumstances, this request is declined and it would be out of pleadings to ask defendant no.3 to produce this document.

Arguments heard for more than one hour 15 minutes.

In view of today's cause list, put up for remaining arguments on **16.08.2018** at 2.00 PM. Time and date given at the convenience of both the parties.

(TWINKLE WADHWA)
ADJ-03/PHC/NEW DELHI
23.07.2018

