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

+ **W.P.(C) 15126/2023**

MS. C

..... Petitioner

Through: Mr. Sanjoy Ghose, Sr. Advocate with
Ms. Maulshree Pathak and Mr. Rohan
Mandal, Advocates.

versus

**UNION OF INDIA, THROUGH MINISTRY OF CORPORATE
AFFAIRS & ANR.**

..... Respondents

Through: Ms. Monika Arora, CGSC with Ms.
Samiksha Mittal, GP and Mr.
Subhrodeep Saha and Ms. Jyoti
Tiwari, Advocates for R-1.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

19.03.2024

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1. This Court on 23.11.2023 had issued notice to Respondent No.1/Union of India to ascertain as to whether the writ petition should be entertained if an alternate remedy is available to the Petitioner.

2. The facts of the case reveal that on a complaint initiated by the Petitioner herein against Respondent No.2 under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, an Internal Complaints Committee (ICC) was constituted. The Committee found that the Respondent No.2 had hit the Petitioner but there was no material to establish whether there was any sexual intent. The Committee, thereafter, directed that appropriate disciplinary action should be initiated

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against Respondent No.2. The disciplinary action was initiated against Respondent No.2 and finally, a penalty of “reduction to a lower stage in time scale of pay by one stage for a period of one year” was imposed on the Respondent No.2.

3. The Petitioner, thereafter, approached this Court assailing the findings of the Internal Complaints Committee (ICC) as well as the quantum of punishment imposed on the Respondent No.2.

4. Learned Counsel appearing for Respondent No.1/UoI places reliance on Rule 24 and 27 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 to contend that the Order under challenge in the present writ petition is subject to further appeal under Rule 24 of the CCS (CCA) Rules, 1965. Rule 24 of the CCS (CCA) Rules, 1965 reads as under:

“(1) A Government servant, including a person who has ceased to be in Government service, may prefer an appeal against all or any of the orders specified in Rule 23 to the authority specified in this behalf either in the Schedule or by a general or special order of the President or, where no such authority is specified-

(i) where such Government servant is or was a member of a Central Service, Group ‘A’ or Group ‘B’ or holder of a Central Civil Post, Group ‘A’ or Group ‘B’ –

(a) to the appointing authority, where the order appealed against is made by an authority subordinate to it; or

(b) to the President where such order is made by any other authority;

(ii) where such Government servant is or was a



member of a Central Civil Service, Group 'C' or Group 'D', or holder of a Central Civil Post, Group 'C' or Group 'D', to the authority to which the authority making the order appealed against his immediately subordinate.

(2) Notwithstanding anything contained in sub-rule (1)

(i) an appeal against an order in a common proceeding held under Rule 18 shall lie to the authority to which the authority functioning as the disciplinary authority for the purpose of that proceeding is immediately subordinate :

Provided that where such authority is subordinate to the President in respect of a Government servant for whom President is the appellate authority in terms of subclause (b) of clause (i) of sub-rule (1), the appeal shall lie to the President.

(ii) where the person who made the order appealed against becomes, by virtue of his subsequent appointment or otherwise, the appellate authority in respect of such order, an appeal against such order shall lie to the authority to which such person is immediately subordinate.

(3) A Government servant may prefer an appeal against an order imposing any of the penalties specified in rule 11 to the President, where no such appeal lies to him under sub-rule (1) or sub-rule (2), if such penalty is imposed by any authority other than the President, on such Government servant in respect of his activities connected with his work as an office-bearer of an association, federation or union, participating in the Joint Consultation and Compulsory Arbitration Scheme."



5. A perusal of the aforesaid Rule indicates that the remedy of an appeal is available to an Officer against whom a penalty has been imposed and the same would not apply in cases where the survivor under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 challenges either the findings of the Internal Complaints Committee's report or the penalty that is imposed by the Disciplinary Authority.
6. This Court is, therefore, of the opinion that no other alternate efficacious remedy is available to the Petitioner.
7. Issue notice to Respondent No.2.
8. On payment of process fee, let notice be issued to Respondent No.2 through all permissible modes, including *Dasti*.
9. Reply(s) be filed before the next date of hearing.
10. List on 16.07.2024.

SUBRAMONIUM PRASAD, J

MARCH 19, 2024

S. Zakir