

**ORDER SHEET**  
**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

**Present-**

**The Hon'ble Sayeed Ahmed Baba, Officiating Chairperson & Member (A)**

**Case No. OA – 450 of 2023**

**Lala Mir - VERSUS - THE STATE OF WEST BENGAL & ORS.**

Serial No. For the Applicant : Mr. Gautam Pathak Banerjee,  
and Learned Advocate  
Date of order

For the Respondents : Mr. Subit Kumar Mandal,  
Learned Advocate

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19.06.2025

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 638 – WBAT / 2J-15/2016 dated 23<sup>rd</sup> November, 2022, issued in exercise of the powers conferred under Section 5(6) of the Administrative Tribunals Act, 1985.

The Tribunal has taken up this application in terms of Section 18 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, published on 22<sup>nd</sup> April, 2013 by the Ministry of Law and Justice, Government of India. The Act states “18. ....*non-implementation of such recommendations may prefer an appeal to the court or tribunal in accordance with the provisions of the service rules applicable to the said person or where no such service rules exist then, without prejudice to provisions contained in any other law for the time being in force.....*”

The prayer in this application is for setting aside the enquiry report of the Internal Complaints Committee dated 13.04.2023. Based on a complaint of a woman employee, the Internal Complaints Committee enquired into the allegations and submitted its report before the concerned authority. The Committee had found the charges levelled against the applicant to be true and recommended departmental action against the applicant.

A complaint against the applicant was lodged on 05.01.2023 by the complainant, Smt. Piu Mukherjee, Data Entry Operator (D.E.O.) working in the office of CID, West Bengal, before the Additional Director General of Police, CID, West Bengal in terms of the provisions of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. In terms of the Sub-Section (1) Section 11 of the Act, the presiding officer of the Internal Complaints Committee of CID asked the applicant whether he is willing to proceed with an enquiry to defend his

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case or not. He agreed to participate in such proceedings. The proceeding was conducted in accordance with the procedures laid down in the Act. After completion of the proceedings, the enquiry report of the Internal Complaints Committee was submitted on 13.04.2023. The Committee found the charges by the complainant to be true and recommended departmental action against the applicant.

The primary grievance of the applicant praying for setting aside the report of the Internal Complaints Committee is that such report was submitted by the Committee after lapse of more than 90 days. Although, the applicant does not state the dates by which his allegation of delayed submission of the report is reflected, but the Tribunal from the records finds that such an enquiry was initiated under Sub-Section (1) Section 11 of the Act on 01.02.2023. The Committee concluded its enquiry and submitted the report on 13.04.2023. From these dates, it is evident that the enquiry report was submitted by the Committee within 72 days, well within the 90 days period as stipulated in the Act.

Another argument put forward by the applicant is that such allegation against him was furnished by the applicant after lapse of 16 months, whereas as per section 9 of the Act, a complaint could be lodged within three months of the incident. Therefore, such complaint made after the statutory period of three months is not a valid complaint. From the records, it is apparent that the complainant furnished a written complaint against the applicant on 05.01.2023. Such complaint mentioned the period of alleged offence during the period of September, 2021 to July, 2022. Section 9 of the Act requires a complainant to lodge a complaint in writing “*within a period of three months from the date of incident and in case of a series of incidents, within a period of three months from the date of last incident.*”

*“Provided further that the Internal Committee or, as the case may be, the Local Committee may, for the reasons to be recorded in writing, extend the time limit not exceeding three months, if it is satisfied that the circumstances were such which prevented the woman from filing a complaint within the said period.”*

From the records in this application, it is clear that the complainant lodged a complaint on 05.01.2023 narrating the alleged incident which occurred during

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September, 2021 to July, 2022. From this, it is evident that the complaint was not lodged within three months from the date of incident. In terms of section 9 of the Act, a complaint was to be lodged within three months from the date of incident – by 31<sup>st</sup> October, 2022. The written complaint was lodged after lapse of five months from the date of last incident alleged by the complainant. The Tribunal after proper examination of the records also do not find that the Internal Committee extended the time limit of three months. As per section 9(i), the Committee was empowered to extend the time limit by another three months by recording the reasons in writing. The Tribunal does not find any extension of time given by the Committee nor such reasons have been recorded in their reports. Delayed lodging of complaint may have a baneful effect on the credibility of the complainant's allegations. The delayed lodging of the written complaint assumes a fatal significance in the light of the fact that there is no credible explanation of such delay. The alleged incidents, according to the complainant had terminated within July 2022. The written complaint was lodged in January 2023 on the incredible plea that the complainant had become afraid after seeing the applicant back at the workplace. In cases of sexual harassment, spontaneity and contemporaneity was in lodging complaint go a long way in infusing credibility to the allegations. The complainant has no earthly reason to wait for the reappearance of the applicant at the workplace before lodging the written complaint. According to the complainant, the applicant was on leave after the incidents had come to an end. The absence of the applicant from the workplace was naturally more conducive to the lodging of the complaint and not his joining service after the leave period. The complainant's remaining idle for six long months and then her sudden lodging of the complaint does not lend any amount of credibility to her case.

The Committee's report also gives the impression that the members may have had been prejudiced against the applicant on account of the latter's using coarse language during the enquiry. Using rustic and semi-derogatory language during the enquiry does not obviously establish the allegation of past sexual harassment, but, as the report clearly indicates, such use had been accepted as "sexual harassment" by the Committee. Once the Committee had accepted the applicant as sexual harasser not with

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regard to the allegation under enquiry but on account of the applicant's using coarse language against the complainant during the enquiry, it had reduced its status to that of a biased body incapable of delivering a dispassionate and fair judgement. This is yet another reason to discard the Committee's finding(s) and recommendation(s). This is certainly a case where the applicant should have been given the benefit of doubt.

The nature of written complaint, the delayed lodging of the same, the complainant's embellishment, lack of credible explanation of the delay and the Committee's apparent bias against the applicant make it imperative for this Tribunal to allow the appeal after setting aside the impugned finding(s) and recommendation(s).

In view of the above observations, the Tribunal comes to the conclusion that the enquiry report of the ICC is not tenable under the law. The application is disposed of by setting aside the report of the Internal Complaints Committee dated 13.04.2023.

(SAYEED AHMED BABA)  
OFFICIATING CHAIRPERSON  
and MEMBER (A)

SCN.