

GAHC010147972024



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THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

WA No.149 of 2025

1. The Airports Authority of India, represented by the Regional Executive Director, Regional Head Quarter, LGBI Airport, Guwahati.
- 2.The Executive Director, Airports Authority of India, Regional Head Quarter, North Eastern Region, LGBI Airport, Assam, Guwahati.
3. The General Manager (HR), Airports Authority of India, Safdarjung Airport, New Delhi.
4. The Chairman, Disciplinary Authority, Airports Authority of India, Safdarjung Airport, New Delhi.
5. The General Manager (HR), Inquiry Officer, Airports Authority of India, NSCBI International Airport, Kolkata.
6. Internal Complaint Committee, Regional Head Quarter, North Eastern Region, represented by the Chairperson.

.....Appellants

-Versus-

1. Shri Praveen VS
Son of K. Sridharan Nair, Priyas, Vamanapuram Post, Thiruvananthapuram, Kerala (permanent address) and presently holding the post of Jt. GM (Commercial), Airports Authority of India and posted at Jay Prakash Narayaan International Airport, Patna.

.....Respondent

2. Ms. Phibahunlang Swer,
Assistant Manager (Commercial), Airports Authority of
India, Imphal Airport, Imphal, presently serving as
Manager (Commercial), NSCBI International Airport,
Kolkata.

.....Proforma Respondent

– **B E F O R E** –
HON'BLE THE CHIEF JUSTICE MR. ASHUTOSH KUMAR
HON'BLE MR. JUSTICE ARUN DEV CHOUDHURY

For the Petitioner : Mr. R. Dubey, Advocate.
: Ms. A.B. Kayastha, Advocate.

For the Respondent(s) : Mr. R. Sharma, Senior Advocate, assisted by Ms. P. Phukan,
Advocate for respondent No.1.

Date of judgment : ***9th December, 2025.***

JUDGMENT & ORDER (ORAL)

(Ashutosh Kumar, CJ)

We have heard Mr. R. Dubey, learned Advocate for the appellants and Mr. R. Sharma, learned Senior Advocate, assisted by Ms. P. Phukan for the respondent No.1.

2. This intra-Court appeal is directed against the judgment dated 26.02.2024 of the learned Single Judge passed in WP(C) No.949/2023, whereby the observation in the Internal Complaints Committee (*hereinafter to be referred as "ICC"*) Report that "evidence was lacking", was expunged and the employer's decision to institute an independent Departmental Proceeding against the respondent No.1/charged officer was set aside, principally on the ground of Section 10(4) of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and

Redressal) Act, 2013 (*hereinafter to be referred as the "2013 Act"*).

3. The appellant/employer contends that the learned Single Judge exceeded the writ jurisdiction in disturbing the factual findings of the ICC and that Section 10(4) of the 2013 Act does not bar initiation of disciplinary action by the employer on the basis of independent material, particularly, where the ICC itself had declined to proceed after the conciliation, and that the complainant's post conciliation objection and a new material (screenshot) required fresh consideration, which the employer attempted to address through Departmental Proceedings.

4. The respondent No.2, a lady Officer working under the supervision of respondent No.1, had lodged a complaint of sexual harassment against the respondent No.1, which was placed before the ICC. During the proceedings, both the parties opted for conciliation on account of workplace disturbance. Conciliation succeeded to the extent that both agreed not to work in proximity.

5. The ICC, after a curtailed inquiry (the complainant/respondent No.2 not pressing for a full inquiry due to mental distress), concluded that evidence was lacking. Later, the complainant objected to such observation in the ICC Report of there being no evidence and cited a screenshot of an objectionable message sent to her by respondent No.1.

The matter was remitted to ICC, which declined to reopen the proceedings in view of the concluded conciliation.

6. The appellant/employer faced with the new material in workplace, initiated an independent departmental enquiry. The writ

petition preferred by the respondent No.1 against such disciplinary action [WP(C) No.949/2023] was allowed and the Departmental Proceedings initiated against him vide order dated 13.01.2023 issued by the Disciplinary Authority appointing the Inquiry Officer to inquire into the charges and the Memorandum dated 25.10.2022, initiating the Departmental Proceedings against the respondent No.1, were set aside and quashed.

Simultaneously, considering the peculiar nature of the case at hand and also after considering all the materials on record and keeping in mind the dignity and reputation of the respondent No.2, the learned Single Judge expunged the first paragraph of the conclusion of the Inquiry Report dated 02.11.2022 declaring that there was no evidence regarding the sexual harassment by respondent No.1.

7. There is no effective resistance by the appellant/employer against the impugned judgment expunging that part of the ICC Report, which held that there was lack of evidence substantiating the charge as the inquiry was curtailed midway without the Committee having sufficient material before it to say that there was lack of evidence.

8. The question, therefore, before this Court is whether the learned Single Judge was justified in quashing the initiation of the Departmental Proceedings against the respondent No.1 after conciliation, primarily on the ground of the provisions contained in Section 10(4) of the 2013 Act.

9. The provision contained in Section 10 of the 2013 Act is being extracted herein below for ready reference:-

“10. Conciliation.— (1) *The Internal Committee or, as the case may be, the Local Committee, may, before initiating an inquiry under section 11 and at the request of the aggrieved woman take steps to settle the matter between her and the respondent through conciliation:*

Provided that no monetary settlement shall be made as a basis of conciliation.

(2) Where settlement has been arrived at under sub-section (1), the Internal Committee or the Local Committee, as the case may be, shall record the settlement so arrived and forward the same to the employer or the District Officer to take action as specified in the recommendation.

(3) The Internal Committee or the Local Committee, as the case may be, shall provide the copies of the settlement as recorded under sub-section (2) to the aggrieved woman and the respondent.

(4) Where a settlement is arrived at under sub-section (1), no further inquiry shall be conducted by the Internal Committee or the Local Committee, as the case may be.”

10. A bare reading of Section 10(4) of the 2013 Act makes it very clear that what is barred is any further inquiry after the conciliation by the Internal Committee or the Local Committee, as the case may be, and it does not extend to the employer's independent disciplinary jurisdiction which flows from the Service Rules.

11. On the contrary, Section 19 of the 2013 Act casts an obligation on the employer to ensure a safe workplace. The statutory duty cannot be negated merely because the complainant agreed to conciliate at one stage, particularly, when the ICC declined to proceed further on the objection by respondent No.2 due to the bar under Section 10(4) of the 2013 Act.

12. In our considered view, the bar under Section 10(4) of the 2013 Act does not extinguish an employer's authority under the Service Rules to inquire into the misconduct of the employee.

13. The ICC proceedings do not substitute disciplinary jurisdiction unless the Service Rules so provide.

14. The 2013 Act is a minimum protective statute and does not curtail disciplinary jurisdiction, unless expressly so provided. Reading Section 10(4) of the 2013 Act as a blanket bar will defeat the very purpose of ensuring safe workplaces. Thus, the part of the impugned judgment, which quashes initiation of the Departmental Proceedings against the respondent No.1, is not sustainable in the eyes of law and is, therefore, set aside.

15. However, so far as the impugned judgment expunging the first paragraph of the ICC conclusion, namely, "lack of evidence" is concerned, we are of the considered opinion that the same ought not to be interfered with for the reason that the inquiry by the ICC could not be concluded because the agreement between the respondent Nos.1 & 2 to conciliate the matter to avoid workplace tension and disturbance.

The Departmental Proceedings initiated by the appellant/ employer against the respondent No.1 being maintainable and lawful as well, it shall be resumed from the stage from where it was stopped. However, the Disciplinary Authority shall proceed with the inquiry in accordance with the Service Rules ensuring full opportunity of defence to the respondent No.1/ charged officer.

16. All questions of facts and merits of the case are kept open to be examined by the Inquiry Officer/ Disciplinary Authority, uninfluenced by any observation made in this judgment.

17. The appeal thus stands partially allowed with no order as to costs.

JUDGE

CHIEF JUSTICE

Comparing Assistant