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IN THE HIGH COURT OF DELHI AT NEW DELHI

CW No. 1318/2000

Ms.Radha Rani Gupta Petitioner
! through: In person.

VERSUS

\$ Union of India & Ors Respondent
^ through: Mr.Rajesh Singh, Advocate.

RESERVED ON: 08-01-2004% DATE OF DECISION: 21-01-2004CORAM:

* Hon'ble Mr.Justice Pradeep Nandrajog

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not? No
3. Whether judgment should be reported in Digest? No

: **PRADEEP NANDRAJOG, J.**

1. By way of the present petition, the petitioner seeks quashing of the orders dated 22.7.1999 and 19.8.1999. By the order dated 22.7.1999, pertaining to the charge-sheet

Signature Not Verified

Digitally Signed By: AMULYA
Certify that the digital file and
physical file have been compared and
the digital data is as per the physical
file and no page is missing.

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dated 18.12.1997, the petitioner was awarded the penalty of lowering of basic pay by two stages for a period of two years for each of the charges No.1 and 2. Punishment awarded was with concurrent effect. By the order dated 19.8.1999, in respect of the charge sheet issued to the petitioner on 3.4.1998, in respect of charge No.1 penalty imposed was removal from service. For charge Nos. 2 and 3 penalty imposed was lowering of basic pay by two stages for a period of 2 years. Penalty awarded for charge Nos. 2 & 3 was to run concurrently.

2. Though, no prayer has been made in the main writ petition, CM No. 3121/200 was filed. It was brought on record that against the two orders of penalty imposed upon the petitioner, she had filed appeals. Appeal filed against the order dated 22.7.1999 was dismissed vide order dated 25.3.2000 being Annexure P-15 and the appeal against the order dated 19.8.1999 was dismissed by another order dated 25.3.2000 annexed as Annexure P-17. It was prayed that the orders in appeal be also quashed.

3. Order dated 25.3.2000 rejecting the appeal filed by

the petitioner against the order dated 22.7.1999 has upheld in toto the order passed by the disciplinary authority. Order dated 25.3.2000 disposing of the appeal against the order dated 19.8.1999 passed by the disciplinary authority has modified the order dated 19.8.1999, in that, penalty awarded against charge No.1 has been modified to that of compulsory retirement from banks services with superannuation benefits.

4. Case of the petitioner is that she was appointed as an Accounts Clerk in UCO Bank on 4.10.1977. Being a spinster, she was harassed by the male members of the Bank. She claims harassment at the hands of the union members, her colleague staff and even the superior officers. Petitioner claims that she was criminally assaulted on 6.8.1991. She made a complaint to the police. As a counter blast she was suspended on 7.8.1991. Penalty was imposed of reducing her pay by five stages. Petitioner was reinstated in February, 1994 and on reinstatement was transferred to the Parliament Street Branch of the Bank. She was victimized by respondents 2 and 3 being the Chief Officer,

UCO Bank and the Zonal Manager, UCO Bank at 5, Parliament Street. On 11.7.1997 she was forced to make a complaint to the Chairman of the Bank and to the local police. Failure on the part of the department to take action on her complaint, she made a complaint to the DCP, Police on 8.12.1997.

5. Complaint dated 11.7.1997 made by the petitioner has been annexed as Annexure P-1 to the petition. In the complaint petitioner states that she was being subjected to extreme mental/physical torture, constant obscenities and threats of a nature which she could not put down on paper, at the hands of the union leaders workman/Director and high officials of the Bank upto the level of Deputy General Manager/General Manager. In the complaint, petitioner made a grievance that these persons have ganged up against her and have become bold enough to the extent of following her and knocking at her door at the dead of night. She made a specific complaint against Mr.P.C.Wahi, Zonal Manager at the Zonal Officer of the Bank. In the complaint she alleged that 17.12.1996 Mr.Jaryal, union leader, in

connivance with Mr.Y.K.Sharma workman Director and Mr.P.C.Wahi, Zonal Manager hit her on the breast and misbehaved with her. She alleged in the complaint that 9.3.1997 when she was taking the exam for promotion, two officers at JMS-I level, Mr.Taneja a union leader in connivance with Mr.Y.K.Sharma Workman Director and Mr.P.C.Wahi, Zonal Manager snatched her answer-sheet. She made a complaint that her salary was given to Mr.Navin Kapoor. She made a complaint that on 30.9.1996 she was marked as being on leave by Mr.JMK Malhotra, Chief Officer in connivance with Mr.P.C.Wahi, Zonal Manager. She made a complaint that Mr.P.C.Wahi, Zonal Manager was conniving with bad characters/anti-social elements to torture her.

6. Complaint further made is that on 6.8.1991 Mr.D.K.Rastogi, Mr.S.C. Jain and Mr.Y.K.Sharma all employees of the Bank criminally assaulted her in connivance with Mr.Arun Ray, Assistant General Manager. She alleged that the said persons gave her beating. She proceeded to list certain allegations of fraud on the part of officers of the Bank. The complaint was addressed to the following persons:-

1. The G.M.(Vigilance)UCO Bank, UCO Bank, 5 Sansad Marg, H.O. 35/1, J.L.N.Road, Calcutta-1, New Delhi.

2. The G.M. PAd. H.O. UCO Bank, 12, Old Court House St., Calcutta-1.

3. The Central Vigilance Commissioner, The Central Vigilance Commission, 3, Rajinder Prasad Road, New Delhi.

4. Mr. P. Chidambaram, The Finance Minister, Ministry of Finance (Banking Division) New Delhi through UPC post.

5. The Governor, R.B.I. 6, Sansad Marg, New Delhi.1 through UPC Post.

6. C.B.I. (Bank Securities Cell) Block-3, CGO Complex, Lodhi Road, New Delhi.110003.

7. Mahilla Dakshta Samiti, 19, Firebrigade Lane, Cannaught Place, New Delhi.

8. The Prime Minister, Govt. of India, New Delhi through UPC Post.

9. National Commission for Women, 2, Deen Dayal Upadhyay Marg, near I. T. O. New Delhi.

10. President of India, President House, New Delhi.

11. D.C.P. Crime against Women 9CAW) Nanakpura, New Delhi."

7. Complaint dated 8.12.1997 to the Deputy Commissioner of Police is again full of allegations against all and sundry. The complaint reads as under:-

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"The Deputy Commissioner of Police,
Police Station Parliament Street,
Parliament Street, New Delhi.

Respected Sir,

I have been subjected an extreme humiliation/molestation/mental and physical torture by the management of UCO Bank Zonal Office, 5, Parliament Street, New Delhi who are in hand and gloves with workmen-Director Mr. Y.K.Sharma and workman-Union leaders/officers/Union leaders since a long time and have been lodging complaints with the police. Your goodself for remial of my constant torture/molestation. The said management is trying their best to declare me mad to hide their continuous lustful evils/illegal designs. They wanted/want to use my body. I am unmarried lady and a workman/clerk and workman/leaders/Director- Mr.Y.K.Sharma who made a criminal attack/assault on my honour/dignity, with their other associates/accomplice/union leaders in connivance with Mr.Arun Ray, General Manager/UCO Bank Management in bank premises when I was working on my seat in 1991 (dated 6th Aug. tried to lift my peticoat and saree. On the same day Mr.Arun Ray, G.M. said above suspended me illegally to save their said tools/associates/bank employees from law, as a counter blast. The domestic enquiry was done illegally which was completely bad in eyes of law. The said Arun Ray, however revoked the suspension with heavy punishment of stoppage of five annual increments by reducing my salary and treating the whole suspension period without duty, because I refused to accept their dirty advances/lustful designs. After reducing my salary and spoiling my life/career, the bank management is even than not satisfied and harassing me extremely almost everyday by issuing me unwarranted/illegal chargesheets/

memos and getting me molested/beaten by their tools/union people/peons/bank employees/bank officers by giving them benefits, promotions, privileges, favours and money.

Recently, (some days ago) Mr.Vohra aged about 57 years said to me. "Agar to mere sath Hotel me sone nahi jayegi aur mere sath galat ashliil karya nahi karegi to mai teri leave lagata rahunga. Mere sath sara bank hai. To to akeli hai. Pahla mera number hai, phir Mr.M.B.Jain, Chief Office (Disciplinary Authority) ka number hoga aur usra number Shri S.C.Gupta ka hoga. Agar to hamare sath hotel me nahin chalegi aur soyegi nahin to hum tujhako phir se suspend kar denge. Agar phir bhi nahi mani to tujhe kidnap karwa ke tujhe maar denge. Hamne tera kawatapan ikalna jaroor hai.

After two or three days the said M.B.Jain Chief Officer (Disciplinary Authority) issued me a charge-sheet dated 18.12.97 which is malafide after-thought and illegal. I did not know the person Mr.A.K.Pathania peon by name/face at all mentioned in the chargesheet dt. 18.12.97. Copy of which is enclosed herewith for kind perusal of your good honour (of honourable D.C.P. Parliament Street Police Station). My life is in an extreme danger. They have threatened me to kill/murder me. They have declared me mad/psychiatric patient every where to save them from future consequences. They said- "Hum sab ak hai. Sara bank staff ak hai. Teri koi witness nahi hoga, to bilkul akeli hai. Teri koi nahi sunega. Isliya maan ja, hamare sath so ja. Hamne tujhe pagal karar de diya hai. Police DCP Sab hamare sath hai. Phir bhi nahi mani to tujhe jaan se maar denge."

UCO Bank management Apne hired gundoon se mujhe presaan karwa raha hai jo mere samne nange ho rahe hai. Mr.J.P.Arora,

Sr.Manager ne mujhe kaha hai ki hamare sath tujhe sex karna hi parega kripya J.P.Arora ko bhi police station shighra bulwa liya jaye.

The said persons/bad characters i.e. Mr.M.B.Jain, Chief Officer (D.A.), Mr. Vohra, D.C.O. G.A.D. and Mr. S.C.Gupta PAD, DCO, and Mr. Y. Sharma, Workmen-Director may be immediately summoned by your goodself to give me immediate protection/security. My life is in extreme danger. The police has done nothing by yet and are declaring me mad in collusion with the said persons.

They are doing act of obscenity in front of me by opening the jips of their pants.

Yours faithfully,
Enclosure: As said above."

8. Petitioner alleges that as a counter blast to the complaints made by her to the higher officers and the police charge-sheet dated 18.12.1997 was issued to her with mala fide intentions. Two charges were listed against the petitioner. The two charges are as under:-

"1. In the morning on 22.11.97, at 11.00 a.m. when Mr.A.K.Pathania, Peon, was going to summon some official of P.A.D. on some official work assigned by the Zonal Manager and you were passing by into the personnel Admn. Deptt. Of Z.O., New Delhi, you addressed the following derogatory remarks to Sh. Pathania :

"Chandhi Chowk ka Badmash aa gaya phir. Harami kutta Badatameez."

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Your above unprovoked act of misbehaviour constitutes misconduct on your part as under :

"Disorderly or indecent behaviour on the premises of the bank" - a gross misconduct as per Clause 19.5 (C) of the Bipartite Settlement dated 19.10.66, as amended upto date.

2. On 5.12.97 at 10.16 A.M., you reached the General Admn. Deptt. Of Z.O. New Delhi, where the attendance register bearing interalia your name, is being kept. Since you arrived later than the permissible time for marking attendance i.e. 10.10 a.m., leave was already marked in the relevant column against your name. However, you scored out the remarks 'Leave' and marked your attendance by writing the arrival time as 10.00 A.M. and put your initials as token of your presence for duty on 5.12.1997, despite repeated verbal advice from the D.C.O. (GAD), Z.O. New Delhi, to the contrary, in view of leave having been already marked against your name, for 5.12.97.

Your above act of tampering with bank's records constitute misconduct on your part as under:-

"Doing any act prejudicial to the interest of the Bank" - A gross misconduct as per Clause 19.5 (j) of the Bipartite Settlement dated 19.10.66, as amended upto date.

You are hereby charged with each of the above misconducts."

9. Petitioner sent her reply to the charge-sheet on 27.12.1997. She denied charge No.1 in toto. She denied that any such incident took place. Pertaining to charge No.2 she stated that she reached the office at 9.55 a.m. and noted that in

the relevant column against her name the remarks "leave" was already put. She denied having scored of the remarks "leave". She stated that when she saw the said remark in the attendance register she submitted an application for leave and left the office.

10. Petitioner further narrates in the petition that she received a suspension order dated 5.3.1998 by post and she also received an order dated 4.3.1998 issued under the signatures of the Zonal Manager requiring her to submit herself for medical examination alleging that her behaviour was abnormal. Thereafter on 3.4.1998 petitioner was served a second charge-sheet listing three charges against her. Charge No.1 alleged that on 5.3.1998 she was called by Mr.R.K.Jain, DCD (GAD) Zonal Office, New Delhi to take delivery of two letters. Petitioner was not at her seat. When petitioner came to the seat she was informed to collect the letters. Petitioner refused to acknowledge receipt of the letters and insisted that she would give acknowledgment only after seeing the two. After going through the second letter which required the petitioner to submit to a medical examination, petitioner shouted and uttered the following obligatory words:-

"Zonal Manager is abnormal, Zonal Manager is mad, B.N.Kaul is abnormal, B.N.Kaul is mad.

B.N.Kaul pagal ho gaya hai, wo mera kya medical karwayega main uska medical examination karwanungi, main usko mental hospital mein bharti karwati hu, B.N.Kaul jesi keere bahut ghumte hai, wo kya sochta hai main abhi tak silent thee ab main usko dekhti hu aur uska medical karwake mental hospital mein bharti karwaungi."

11. The said act was alleged to be misconduct. Charge No.2 was that the petitioner refused to take the two letters which had to be sent to her by post. Said act constituted misconduct i.e. willful disobedience of lawful reasonable order of the Management. Charge No.3 was that after the incident listed at charge No.1 petitioner summoned the police. The police came to the office and made enquiries. Police visit caused disturbance in the office work. The said act constituted misconduct, in that, it was an act prejudicial to the interest of the Bank. Petitioner sent her reply denying the charges.

12. In the course of enquiry pursuant to the two charge-sheets, petitioner by a letter dated 26.5.1988 sought permission to engage an "advocate at bank cost". Reason for said request was that no representative of the union was ready to defend the petitioner. By letter dated 1.6.1988 request was declined pointing out that as per the bipartite settlement dated 19.10.1966 between the management and the employees,

petitioner should defend herself or through a representative of a registered trade union of the employees of the bank.

13. Proceedings continued. Petitioner appeared. Whatever best she could do, she did. Enquiry officer held against the petitioner on all counts. Enquiry reports were furnished to the petitioner alongwith memorandums to show cause as to why penalty proposed in the show cause notices be not inflicted. Petitioner submitted her replies. They were considered. Orders as noted above imposing the penalties were passed, appeals were filed. Same were dismissed as noted above.

14. Proceedings of the present writ petition shows that on 15.5.2002, counsel's assistance was provided to the petitioner. Mr. Raman Kapoor, Advocate, who had approximately 18 years of standing at the Bar was requested by the court to assist the petitioner. At the next hearing, as recorded in the order dated 16.8.2002, petitioner informed the court that she does not want to be represented by any advocate. Order dated 16.8.2002 records that the bank made statement to the court that it was willing to gave up all the punitive actions against the petitioner save and except the order of compulsory retirement. This would mean that pension would be payable to the petitioner at the

salary last drawn and not at the reduced scales. Petitioner did not accept the same.

15. At the hearing held on 18th December, 2003, I heard the petitioner at some length. She was fairly incoherent in making her submissions. She was highly emotional and would burst into tears. She appeared in a highly disturbed state of mind. I summoned the enquiry report pertaining to both the enquiries. On 8th January, 2004, I heard the petitioner. Counsel for the respondent assisted in going through the enquiry record. Judgment was reserved.

16. Grievance of the petitioner could be summarised as under:-

- (1) She is a victim of harassment and a victim of a deep rooted conspiracy by the male members of the bank right down from the peon to the Directors of the bank, who want to exploit the body of the petitioner, who is an unmarried lady.
- (2) The charge-sheets are mala fide and have been issued as a counter blast to the complaints lodged by the petitioner before the police.
- (3) Suspension and the charge-sheet issued in April, 1998 are ex-facie a result of conspiracy, evidenced by the

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fact that the petitioner received two envelopes posted on 6.3.1998. In one she received letter dated 6.3.1998 enclosing two copies of an order passed by the competent authority on 5.3.1998. In the other she received copy of the letter dated 4.3.1998 issued by the Zonal Manager requiring the petitioner to submit herself for medical examination. Petitioner contends that if letter dated 4.3.1998 was posted to her on 6.3.1998 where was the question of the petitioner stating what was attributed to her in respect of the said letter on 5.3.1998.

- (4) The charge-sheets were vague.
- (5) Proper opportunity was not granted to the petitioner to defend herself because she was not permitted to engage services of an advocate and secondly enquiry officer was biased against the petitioner and did not give her full opportunity to cross-examine the witnesses of the management.

17. As regards submission 1 and 2 that petitioner was subjected to harassment by all the male members of the bank and the charge-sheets were malafide and were a counter blast to the complaints lodged by the petitioner before the police, it need

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only be stated that evidenced by the complaint annexed as Annexure-P.1 dated 11.7.97, the complaint dated 8.12.97 to the Dy.Commissioner of Police noted in para 7 above and from the averments made in the petition, petitioner apparently suffers from some kind of a delusion. From the level of peons to the Board level persons, petitioner alleges that they had an evil eye on her body. From the charge-sheets, it is apparent that the petitioner has been summoning the police to the office which would obviously disturb the working of the bank. Petitioner has gone to the extent of alleging that people from the bank follow her and knocked at her door at the dead hour of the night. The complaints of the petitioner ex-facie reveal the delusions under which the petitioner suffers and it cannot be said that the charge-sheets issued are malafide or motivated out of vendetta. As regards the allegations of the petitioner that the charge-sheets are vague, first charge-sheet is noted in para 8 above. Second charge-sheet is noted in para 10 above. I do not find the same to be vague. Each and every article of charge has been precisely stated in reference to the incident and the time.

18. Contention of the petitioner predicated on the fact that two envelopes were posted to her on 6.3.1998, one of them containing the letter dated 4.3.1998 requiring her to submit for

medical examination be now dealt with. What the petitioner contended was, that if letter dated 4.3.1998 was posted to her on 6.3.1998 where was the question of the petitioner making any derogatory remarks contained in the note dated 5.3.1998 which led to the suspension of the petitioner on 5th March, 1998 and issuance of the charge-sheet dated 3.4.1998 listing it a charge against the petitioner that on 5.3.1998 she used derogatory words against the Zonal Manager.

19. The said contention of the petitioner has to be noted and rejected. From the charge-sheet dated 3.4.1998, it is apparent that the charge against the petitioner is that the letter in question i.e. letter dated 4.3.1998 was sought to be served upon the petitioner on 5.3.1998. She read the same and on reading the same used the abusive language noted in para 10 above. It is, thus, apparent that since the petitioner did not receive the letter dated 4.3.1998, same was posted to her on 6.3.1998. Incident of 5th had taken place a day prior when the said letter was attempted to be served by hand to the petitioner.

20. It was not disputed that in terms of the bipartite settlement dated 19.10.1966 between the bank and the union, advocate could not be engaged as a defence assistant. It is not the case of the petitioner that the Presenting Officer was an

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advocate or a person with legal background. Petitioner, therefore, could not demand that she be defended in the enquiry through an advocate and that too at the cost of the Bank. I may note that even in the present proceedings the petitioner refused to be assisted by an advocate when offered one by the court. She chose to argue the case herself.

21. In respect of her complaint that she was not given a proper opportunity during enquiry, petitioner made a grievance that the complaint dated 22.11.1997 of Mr.A.K.Pathania was not supplied to her and that the list of witnesses and list of documents was not supplied to her. Proceedings dated 13.5.1988 show that the complaint was exhibited in the statement of Mr.A.K.Pathania. Petitioner made a grievance that the complaint was not supplied to her. To cut short the dispute, on 7.8.1988 the Enquiry Officer gave to the petitioner a copy of the complaint. Petitioner has signed the proceedings of 7.8.1998. Proceedings dated 6.4.1998 show that the petitioner raised a grievance that list of witnesses and attendance register of the relevant date 5.2.1997 in respect of the second charge-sheet was not given to her. To cut short the controversy, once again, on 6.4.1998 Enquiry Officer handed over to her the said documents. It may be noted that 6.4.1998 was the date of preliminary hearing.

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Petitioner received the list of witnesses. She cross-examined the witnesses as evidenced from the enquiry proceedings dated 14.12.1998, 30.12.1998, 2.1.1999, 28.1.1999, 4.1.1999, 10.2.1999 and 11.2.1999. Proceedings of the enquiry shows that not only was the list of witnesses supplied well in time but the petitioner was given ample opportunity to cross-examine the witnesses. Proceedings of the enquiry show that the petitioner adopted dilatory tactics and unilaterally withdraw from the proceedings leading to unnecessary adjournment. Proceedings show that on 17.8.1999 petitioner started putting irrelevant questions to MW-1. Presenting Officer objected. Petitioner made utterances which were unwarranted. Proceedings at that stage got adjourned to the post lunch session. Petitioner did not appear till 3.30 p.m. It is recorded that the petitioner withdrew from the proceedings without signing the same. Similarly on 30.12.1998 the Enquiry Officer afforded opportunity to the petitioner to complete cross-examination of MW-1. Petitioner continued to ask irrelevant questions. Enquiry Officer closed the cross-examination and permitted the Presenting Officer to re-examine MW-1 for clarification of certain answers given by him in his cross-examination. Petitioner left the enquiry proceedings. Record shows that on 4.1.1999 petitioner did not appear.

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Proceedings of 13.1.1999 show that as against the appointed time of 10.00 a.m. petitioner appear^{ed} at the enquiry at 11.30 a.m. Petitioner made a request to cross-examine MW1, MW-2 and MW-3. Enquiry officer ruled that since the petitioner had not participated in the enquiry and cross-examination as far as MW-1 was concerned was closed on 30.12.1998, he refused further cross-examination. However, in the interest of justice the other two witnesses were recalled for cross-examination. Petitioner cross-examined the two witnesses. On the next date i.e. 14.1.1999 record shows that the petitioner reached in the post lunch session. She made a request for adjournment which was granted. On 30.1.1999 petitioner cross-examined MW-2. She put irrelevant questions.

22. It is apparent that full opportunity was given to the petitioner and it was she who took a recalcitrant attitude.

23. From the record of the enquiry proceedings it is apparent that the petitioner was given full and complete opportunity to defend herself.

24. Indeed, on the basis of evidence on record petitioner was held guilty. I find that it cannot be said that there is no evidence on record to support the findings arrived at. It is

unfortunate that in the course of the present proceedings petitioner rejected a very fair offer given to her on 16.8.2002.

25. I find no merit in the writ petition. The same is accordingly dismissed.


 PRADEEP NANDRAJOG, J.

January 21, 2004
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