

**BEFORE THE UTTARAKHAND PUBLIC SERVICES TRIBUNAL
BENCH AT NAINITAL**

Present: Hon'ble Mr. Rajendra Singh

-----Vice Chairman (J)

CLAIM PETITION NO. 18/NB/SB/2022

Sunil Kumar, s/o Shri Devram, aged about 37 years, presently posted as Junior Clerk, Dr. R.S.Tolia, Uttarakhand Administration Academy, Nainital, r/o Residential Campus, Dr. R.S. Tolia, Uttarakhand Administration, Academy, Nainital.

.....Petitioner

vs.

1. State Uttarakhand through Secretary, Department of Personnel, Government of Uttarakhand, Dehradun.
2. Dr. R.S.Tolia, Uttarakhand, Administration Academy, Nainital through its Director, Oakpark, Nainital.

.....Respondents

Present: Sri Sandeep Kothari, Advocate, for the Petitioner
Sri Kishore Kumar, A.P.O., for the Respondents

JUDGMENT

DATED: APRIL 18, 2023

By means of the present claim petition, the petitioner seeks the following reliefs:

"a) To set aside/quash the adverse entry awarded by the joint director of the respondent institute with respect of the year 2018-19 and further to quash the order dated 02.05.2020 passed by the Director of the respondent institute (contained as Annexure no. 11 to this petition).

b) Issue any other and further order or direction which this Hon'ble Court may deem fit and proper under the facts and circumstances of the case.

c) Award costs of the petition to the petitioner/claimant."

2. Briefly stated the facts as per the claim petition are that the petitioner was appointed as Junior Clerk on 23.10.2013 in the respondent Institute in the Pay Scale of 5200-20200 of Grade Pay- 2000/- who joined the post on 31.10.2013. The entire controversy started by a complaint dated 13.06.2018 made by one Manju Budhlakoti addressed to the Joint Director of the Institution, wherein the allegations of misbehavior have been levelled against the petitioner. On 14.06.2018, a letter of request was written to the Chairman, Internal Complaint Committee that the matter be settled amicably. The Joint Director of the Institution has also directed that the Chairman Internal Complaint Committee to proceed for conciliation vide order dated 19.06.2018. Thereafter, the parties have amicably settled the dispute and the Chairman, Internal Complaint Committee had submitted the report to the Director alongwith the settlement of undertaking. On 19.06.2018, a show cause notice was issued by the Joint Director against the petitioner as to why the disciplinary proceedings be not initiated against the petitioner. The petitioner replied to the show cause notice, however, in the meantime, the settlement was arrived, taking into consideration the proceedings of the conciliation and settlement, the warning has been issued on 05.07.2018 and this necessary implies that the matter stands closed. The complaint preferred by the lady was closed due to settlement proceedings under the provisions of the Sexual Harassment of Women at Work Place (Prevention, Prohibition & Redressal) Act, 2013 and further the show cause notice to initiate disciplinary proceedings culminated into the letter of warning dated 05.07.2018 and this makes its absolutely clear that the matter stood closed. However, on 08.08.2019, the petitioner was communicated that the adverse entry has been awarded and the integrity of the petitioner has been withheld. Thereafter, the petitioner made the representation tot eh Director, which was rejected vide order dated 02.03.2020, whereby the integrity was deleted and the adverse entry was awarded. The orders impugned passed by the respondent authorities have civil consequences and further the same will have material bearing on the service career as

well as the monetary aspects of the service of the petitioner and the same are liable to be quashed. Hence this petition.

3. The claim petition has been opposed by the respondents by filing C.A/W.S. It has been stated in the C.A. that it was clarified by the reporting officer in the annual evaluation that self-discipline of the delinquent employee is very much needed. On several occasions, the delinquent employee has brought disrepute to the Academy by his disobedient behaviour. A complaint was received that the petitioner was using indecent language in the academy campus at night after consuming alcohol, due to which other government employees living in the campus were feeling insecure and the environment of the campus was deteriorating. In this regard, explanation was obtained from the petitioner vide office letter dated June 19, 2018, under Rule-3(3)(1) of the Uttarakhand Govt. Servants Conduct Rules, 2002, which was disposed of with a stern warning vide office letter dated 05.07.2018. Apart from this, it has been accepted by the delinquent employee himself that he misbehaved with the female colleague. Although no action was taken in the said case on settlement before the committee under the Act, but there was no improvement in the conduct of the petitioner. On this basis, the Reporting Officer marked his category as adverse and integrity was marked as doubtful, agreeing with the same, the Accepting Officer also given approval. Under Rule-4 of the Uttarakhand Government Servant (Adverse Good / Satisfactory Best. Excellent Disclosure of Annual Confidential Report and disposal of representation and allied matters) Rules, 2015, giving a reasonable opportunity to the petitioner, the said adverse entry was communicated. In relation to the adverse entry given to the delinquent employee, no such fact or evidence was presented in the reply submitted by him, which contradicts the intention/opinion of the reporting officer.

During reconsideration, it was found that the integrity of the delinquent employee was marked. Generally, the integrity of an employee

is considered doubtful if he indulges in any financial irregularity or partiality or official loss with a particular person, but if no evidence is found on the file of the delinquent employee, considering his integrity as doubtful, that entry is deleted. It was not according to the government servant. Being a training institution for administrative officers, the Academy expects the highest standards of integrity and conduct from its employees. Due to not being of high standard, their category (unfavorable) was retained after due consideration. If such an employee is not punished, the indiscipline tendency of other employees of the academy will get strengthened and the dignity of the academy will be adversely affected. In view of these circumstances, this writ petition deserves to be dismissed and the cost of damages should also be recovered from the petitioner.

The allegations were leveled by the female co-worker against the petitioner, which have been corroborated by the petitioner's own admission that he behaved indecently with the female co-worker even after that, complaints were received against the petitioner for using indecent language in the academy campus after drinking alcohol at night, due to which other government employees living in the campus were feeling insecure and the atmosphere of the campus It was getting worse, due to which under Rule-3(3) (1) of the Uttarakhand Govt. Servants Conduct Rules, 2002 explanation was received from the petitioner vide office letter dated 19.06.2018 and strict warning was issued vide office letter dated 05.07.2018.

Although petitioner's case was referred to the Internal Complaints Committee for necessary action, but after this, the petitioner behaved in the academy premises in such a manner, which was not expected even from a normal person. Whereas the petitioner is a Government Servant, the complaints were received against the petitioner for drinking alcohol in the academy premises at night, abusing loudly and using foreign language, which was against office discipline and dignity. In view of such indecent behavior of the petitioner, clarification was received on 19.06.2018 and warning was issued vide letter dated 05.07.2018. The indiscipline being

exercised was made the basis of evaluation of the Annual Confidential Entry, which was a different matter from the settlement reached before the Internal Complaints Committee. The settlement made between the victim and the petitioner before the Complaints Committee was a mutual consent between them, due to which no further action was taken under the Act. Although indecency with female colleague has been accepted by the plaintiff, for which action could be taken against the petitioner for violation of Rule 3(3) of Uttaranchal State Employees Conduct Rules, 2002. However, the case was settled before the Complaints Committee on the basis of agreement between the victim and the plaintiff, due to which separate punitive action was not taken against the female co- worker. Apart from the above incident, the conduct of the petitioner has not been satisfactory, on the basis of which adverse remarks were made in the annual confidential entry in question.

4. I have heard learned Counsel for the parties and perused the record.

5. Learned Counsel for the petitioner has argued that the entire controversy started by a complaint dated 13.06.2018 made by one Manju Budhlakoti addressed to the Joint Director of the Institution, wherein the allegations of misbehavior have been levelled against the petitioner. On 14.06.2018, a letter of request was written to the Chairman, Internal Complaint Committee that the matter be settled amicably. The Joint Director of the Institution has also directed that the Chairman Internal Complaint Committee to proceed for conciliation vide order dated 19.06.2018. Thereafter, the parties have amicably settled the dispute and the Chairman, Internal Complaint Committee had submitted the report to the Director alongwith the settlement of undertaking. On 19.06.2018, a show cause notice was issued by the Joint Director against the petitioner as to why the disciplinary proceedings be not initiated against the petitioner. The petitioner replied to the show cause notice, however, in the meantime, the settlement was arrived, taking into consideration the

proceedings of the conciliation and settlement, the warning has been issued on 05.07.2018 and this necessary implies that the matter stands closed. The complaint preferred by the lady was closed due to settlement proceedings under the provisions of the Sexual Harassment of Women at Work Place (Prevention, Prohibition & Redressal) Act, 2013 and further the show cause notice to initiate disciplinary proceedings culminated into the letter of warning dated 05.07.2018 and this makes its absolutely clear that the matter stood closed.

It has been argued on behalf of the respondents that A complaint was received that the petitioner was using indecent language in the academy campus at night after consuming alcohol, due to which other government employees living in the campus were feeling insecure and the environment of the campus was deteriorating. The settlement made between the victim and the petitioner before the Complaints Committee was a mutual consent between them, due to which no further action was taken under the Act. Although indecency with female colleague has been accepted by the plaintiff, for which action could be taken against the petitioner for violation of Rule 3(3) of Uttaranchal State Employees Conduct Rules, 2002. However, the case was settled before the Complaints Committee on the basis of agreement between the victim and the plaintiff, due to which separate punitive action was not taken against the female co-worker.

6. On the basis of the above discussion, the Tribunal finds that on 13.06.2018, a complaint was made by one Manju Budhlakoti addressed to the Joint Director of the Institute, wherein allegations of misbehaviour has been levelled. The complaint to the Joint Director reads as under:

“सेवा में,

संयुक्त निदेशक
डॉ० आर० एस० टोलिया उत्तराखण्ड प्रशासन अकादमी,
नैनीताल।

महोदय,

निवेदन है कि प्रार्थिनी विगत 2013 से अकादमी की प्रशिक्षण एवं समन्वय इकाई में प्रशिक्षण सहायक के तौर पर कार्य कर रही है। श्री सुनील कुमार कनिष्ठ सहायक जो कि अकादमी के अधिष्ठान कार्यालय में संबद्ध है, के द्वारा प्रार्थिनी को अनावश्यक रूप से परेशान किया जा रहा है प्रार्थिनी के कार्यालय में कई बार आकर उससे अनर्गल बातें की जा रही है प्रार्थिनी द्वारा कई बार इन्हें इस तरह का व्यवहार नहीं करने के लिये कहा गया किन्तु इनके द्वारा मुझे बार-बार अनावश्यक रूप से फोन किया जा रहा है। साथ ही इनके द्वारा कार्यालय एवं सार्वजनिक स्थलों पर प्रार्थिनी के चरित्र के बारे में अनर्गल बातें कही जा रही है। तथा प्रार्थिनी की छवि खराब करने का प्रयत्न किया जा रहा है।

महोदय इनके द्वारा पूर्व में प्रार्थिनी के साथ अभद्रता की गयी थी जिसकी शिकायत प्रार्थिनी द्वारा मौखिक रूप से तत्कालीन उप-निदेशक (राजस्व) श्रीमती रूचि मोहन रयाल मैम से की गयी तथा उप-निदेशक महोदय द्वारा इन्हें मौखिक रूप से इन्हें भविष्य में इस तरह के व्यवहार को पुनरावृत्ति नहीं करने के लिए निर्देशित किया गया था। तदुपरान्त भी इनके द्वारा कार्यालय समय में एवं कार्यालय के बाद भी प्रार्थिनी का पीछा करने एवं अश्लील हरकत करने की कोशिश की जा रही है। साथ ही मुझे उच्चाधिकारियों के पास शिकायत करने की स्थिति में और अधिक छवि खराब करने की धमकी दी जा रही है। जिससे प्रार्थिनी असुरक्षित महसूस कर रही है। महोदय प्रार्थिनी द्वारा श्री सुनील कुमार को बार-बार मुझे अनावश्यक रूप से फोन करके परेशान न करने के लिये भी अनुरोध किया गया किन्तु इनके द्वारा अभी भी लगातार मुझे अनावश्यक रूप से दिन एवं रात में फोन करने परेशान किया जा रहा है। तथा बेवजह गलत इरादे से प्रार्थिनी के कार्यालय में आकर अनर्गल बातें एवं अश्लील हरकत करने की कोशिश की जा रही है।

महोदय यह भी अवगत कराना है कि श्री सुनील कुमार पूर्व में भी अकादमी में कार्यरत तत्कालीन मुख्य प्रशासनिक अधिकारी श्रीमती निशा पाण्डे के साथ भी अभद्रता कर चुके हैं। तत्समय ये उनके कार्यालय से प्रत्यक्ष रूप से संबद्ध थे।

महोदय प्रार्थिनी श्री सुनील कुमार के इस व्यवहार से अत्यधिक दुखी है। श्री सुनील कुमार का अकादमी स्थित आवास भी प्रार्थिनी के आवास के नजदीक है तथा इनके द्वारा कार्यालय के पश्चात रात्रि में भी शराब पीकर हल्ला-गुल्ला किया जाता। चूंकि प्रार्थिनी अपनी बहन के साथ अकेले रहती है। तथा प्रार्थिनी के माता पिता प्रार्थिनी के साथ नहीं रहते। ऐसी स्थिति में प्रार्थिनी श्री सुनील कुमार के इस व्यवहार से कार्यालय तथा आवास दोनों जगह असुरक्षित महसूस कर रही है।

महोदय, श्री सुनील कुमार द्वारा दिनांक 11.6.2018 को दिन में लगभग 2.00 बजे राज्य कर कार्यालय तल्लीताल नैनीताल में जाकर प्रार्थिनी की बहन से भी इस संबंध में अनावश्यक वाद-विवाद किया गया।

इनके द्वारा दिनांक 5 मई 2018 को कलेक्ट्रेट परिसर में धरना प्रदर्शन के दौरान सार्वजनिक तौर पर प्रार्थिनी का हाथ पकड़कर अभद्रता की गयी तथा किसी को बताने की स्थिति में और अधिक परेशान करने की धमकी दी गयी। श्री सुनील कुमार के इस व्यवहार से प्रार्थिनी अत्यधिक असुरक्षित महसूस कर रही है।

अतः सूचना महोदय की सेवा में आवश्यक कार्यवाही हेतु प्रेषित है।

दिनांक 13.6.2018

प्रार्थिनी

(मंजू बुढलाकोटी)

प्रशिक्षण सहायक

प्रशिक्षण एवं समन्वय इकाई।”

7. On next day i.e. 14.06.2019, complainant moved a letter of request was written to the Chairman, Internal Complaint Committee that

the matter be settled amicably. The Joint Director of the Institution has also directed that the Chairman, Internal Complaint Committee to proceed for conciliation vide order dated 19.06.2018. The letter dated 14.06.2018 reads as under:

“सेवा में,
अध्यक्ष,
कार्यालय आंतरिक समिति
महोदय,

निवेदन है कि श्री सुनील कुमार, द्वारा अनावश्यक रूप से मुझे परेशान किया जा रहा है, किन्तु अकादमी की गरिमा को देखते हुए मेरा अनुरोध है कि प्रथम चरण के रूम में इस प्रकरण को आपसी बातचीत से ही सुलझा लिया जाये।

दि. 14/6/2018

प्रार्थिनी

(मंजू बुढलाकोटी)
प्रशिक्षण सहायक
प्रशिक्षण एवं समन्वय इकाई”

8. Thereafter, the parties have amicably settled the dispute and the Chairman, Internal Complaint Committee had submitted the report to the Director along with the settlement of undertaking (Annexure no. 5), which reads as under:

“सेवा में
निर्देशक
डॉ आर.एस.टी उत्तराखण्ड प्रशासन अकादमी,
नैनीताल।

दिनांक 27 जून, 2018

विषय: आन्तरिक परिवाद समिति द्वारा समझौता प्रक्रिया के संबंध में।

महोदय,

आज दिनांक 27 जून 2018 के कम में जेण्डर इश्यूज प्रकोष्ठ सी.जी. जी. में कार्यस्थल पर यौन उत्पीडन निवारण एक्ट के अर्न्तगत गठित आन्तरिक परिवाद समिति द्वारा दो पक्षों सुश्री मंजू बुढलाकोटी एवं श्री सुनील कुमार के बीच एक्ट की धारा 10(1) के अनुसार समझौते की प्रक्रिया हेतु एक बैठक का आयोजन किया गया जिसमें श्रीमती मीता उपाध्याय (अध्यक्ष) कन्सलटेन्ट, जेण्डर इश्यूज, डॉ मंजू पाण्डे (सदस्य), असिस्टेन्ट प्रोफेसर, डी.एम.सी श्रीमती रश्मि पाण्डे (बाह्य सदस्य) से.नि. विशेष कार्याधिकारी डॉ ओम प्रकाश (सदस्य), असिस्टेन्ट प्रोफेसर डी.एम.सी. उपस्थित थे।

इस बैठक में दोनों पक्षों द्वारा आपसी सहमति से समझौते के लिये स्वीकृति दी गयी तथा पीडिता द्वारा कुछ बिन्दुओं पर शर्तें रखी गयी जिन्हें आरोपी द्वारा मान लिया गया तथा पीडिता से माफी माँगी गयी एवं

समझौता पत्र पर दोनों पक्षों द्वारा हस्ताक्षर किये गये जो महोदय के अवलोकनार्थ पार्श्व में संलग्न है। समिति का यह मानना है कि यदि भविष्य में समझौता पत्र में लिखित शर्तों का उल्लंघन होता है तो समिति कार्यस्थल पर यौन उत्पीड़न निवारण एक्ट की धारा 11(1) के अनुसार कार्यवाही करने को बाध्य होगी।

इस प्रकरण के संदर्भ में समिति का सुझाव है कि दोनों पक्षों का एक ही आवासीय परिसर में रहना उचित नहीं होगा अतः समिति संस्तुति करती है कि आरोपी को अकादमी के किसी अन्य आवासीय परिसर में स्थानान्तरित कर दिया जाये।

समझौता पत्र
(Under Section 10 (1))

आज दिनांक 27 जून 2018 को डॉ० आर० एस० टी० उत्तराखण्ड प्रशासन अकादमी, नैनीताल में आन्तरिक परिवाद समिति द्वारा सुश्री मंजू बुदलाकोटी तथा श्री. सुनील कुमार के मध्य **Conciliation** की प्रक्रिया के लिये एक बैठक का आयोजन किया गया क्योंकि दोनों पक्षों द्वारा समझौते के लिये लिखित अनुरोध किया गया था।

अतः इस एक्ट के धारा 10(1) के अन्तर्गत दोनों पक्षों का बयान लिया गया और उस आधार पर समिति द्वारा इस मामले में समझौते के निम्न शर्तों पर आधारित एक समझौता पत्र बनाया गया है जिस पर दोनों पक्षों द्वारा सहमति प्रदान की गयी।

पीडिता द्वारा समझौते हेतु निम्न रखी गई जिस पर आरोपी द्वारा इन्हें मानने हेतु सहमति दी गई।

आरोपी पीडिता से किसी भी प्रकार की बात नहीं करेंगे नहीं इसके इन परिवार द्वारा कोई संपर्क किया जायेगा।

- आरोपी पीडिता से किसी भी प्रकार की बात-चीत नहीं करेंगे नहीं इनके व इनके परिवार द्वारा कोई संपर्क किया जायेगा।

- पीडिता से मौखिक या मोबाइल अथवा मेसेज द्वारा कोई संपर्क आरोपी द्वारा नहीं किया जायेगा

- आरोपी तथा उनके परिवार के किसी भी सदस्य द्वारा पीडिता के विरुद्ध कोई दुष्प्रचार कार्यस्थल या उससे बाहर कहीं भी नहीं किया जायेगा।

- आरोपी द्वारा पीडिता से अपने दुर्व्यवहार लिए माफी माँगी जायेगी तथा आश्वासन दिया जायेगा कि भविष्य में इस प्रकार के दुर्व्यवहार की पुनरावृत्ति नहीं की जायेगी।

- पीडिता द्वारा अवगत कराया गया कि आरोपी द्वारा एवं उनकी पत्नी द्वारा उनके खिलाफ चरित्र हनन के उद्देश्य से दुष्प्रचार किया जा रहा है अतः आरोपी द्वारा आश्वासन दिया जाये कि उनके व परिवार द्वारा इस प्रकार का भविष्य में कोई दुष्प्रचार नहीं किया जायेगा।

9. Section 10 of the Sexual Harassment of Women at Work Place (Prevention, Prohibition & Redressal) Act, 2013 provides as follows:

"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."

Above Rule 10(4) clearly provides that if the settlement is arrived between the parties and under sub clause (1), no further enquiry shall be conducted by the Internal Complaint Committee and the Local Committee as the case may be.

Section 11 and other provisions of the Act of 2013 provide that the issue of any further enquiry by the Internal Complaint Committee or the Local Committee arises, if and only if, the compromise has not arrived and the terms & conditions as agreed in the settlement has not been abided by the parties concerned. Rule 11 of the Act of 2013 reads as under:

Section 11-Inquiry into complaint.-

(1) Subject to the provisions of section 10, the Internal Committee or the Local Committee, as the case may be, shall, where the respondent is an employee, proceed to make inquiry into the complaint in accordance with the provisions of the service rules applicable to the respondent and where no such rules exist, in such manner as may be prescribed or in case of a domestic worker, the Local Committee shall, if prima facie case exist, forward the complaint to the police, within a period of seven days for registering the case under section 509 of the Indian Penal Code (45 of 1860), and any other relevant provisions of the said Code where applicable:

Provided that where the aggrieved woman informs the Internal Committee or the Local Committee, as the case may be, that any term or condition of the settlement arrived at under sub-section (2) of section 10 has not been complied with by the respondent, the Internal Committee or the Local Committee shall proceed to make an inquiry into the complaint or, as the case may be, forward the complaint to the police: Provided further that where both the parties are employees, the parties shall, during the course of inquiry, be given an opportunity of being heard and a copy of the

findings shall be made available to both the parties enabling them to make representation against the findings before the Committee.

(2) Notwithstanding anything contained in section 509 of the Indian Penal Code (45 of 1860), the court may, when the respondent is convicted of the offence, order payment of such sums as it may consider appropriate, to the aggrieved woman by the respondent, having regard to the provisions of section 15,

(3) For the purpose of making an inquiry under sub-section (1), the Internal Committee or the Local Committee, as the case may be, shall have the same powers as are vested in a civil court the Code of Civil Procedure, 1908 (5 of 1908) when trying a suit in respect of the following matters, namely:-(a) summoning and enforcing the attendance of any person and examining him on oath, (b) requiring the discovery and production of documents; and (c) any other matter which may be prescribed.

(4) The inquiry under sub-section (1) shall be completed within a period of ninety days."

10. After closure of the settlement proceedings under Section 10(1), an order dated 05.07.2018 was issued by the respondent by which a warning has been issued to the petitioner not to repeat such conduct in future. It has also been mentioned in the warning letter that if the terms & conditions of the compromise have been violated, further action shall be taken against the petitioner. The warning letter is reproduced herein below:

"कार्यालय रघुनन्दन सिंह टोलिया उत्तराखण्ड प्रशासन
अकादमी नैनीताल
संख्या 1087/पै0अ0 2018-19 दिनांक 5 जुलाई 2018

श्री सुनील कुमार
कनिष्ठ सहायक

चेतावनी पत्र

कार्यस्थल पर महिलाओं के साथ दुर्व्यवहार उत्पीड़न तथा अभद्र व्यवहार करने के कारण उत्तराखण्ड राज्य कर्मचारी आचरण नियमावली 2002 के नियम 3 (3) (1) के उल्लंघन के संबंध में अकादमी के पत्र संख्या 1013/2018-19/वै0अ0 दिनांक 19.06.2018 के माध्यम से स्पष्टीकरण प्राप्त किया गया था आपके स्पष्टीकरण दिनांक 22.06.2018 का अवलोकन किया गया आपका यह स्पष्टीकरण नितान्त अपर्याप्त तथा कार्यालय के गुमराह करने वाला है इस संबंध में महिलाओं के यौन उत्पीड़न रोकने संबंधी कार्यालय की आन्तरिक समिति द्वारा इस कार्यालय को अपनी आख्या दिनांक 27.06.2018 को प्रस्तुत की गयी है जिसे माध्यम से आपके और पीडित पक्ष के बीच हुये समझौता शर्तों का विवरण भी दिया गया है आपकी न्यून सेवा को देखते हुये तथा आपके द्वारा समझौता पत्र में अपने आचरण को सुधारने के आश्वासन व किये गये दुर्व्यवहार के लिये मांगी गयी माफी को दृष्टिगत रखते हुये इस बार आपको मात्र कड़ी चेतावनी दी जाती है भविष्य में यदि

आपके द्वारा इस प्रकार के आचरण की पुनरावृत्ति की गयी तो आपके विरुद्ध गम्भीर अनुशासनिक कार्यवाही के अतिरिक्त विधिक कार्यवाही भी की जायेगी साथ ही कड़े निर्देश दिये जाते हैं कि आपके और पीडिता के मध्य दिनांक 27.06.2018 को हुये समझौता शर्तों का अक्षरस एवं समयबद्ध अनुपालन किया जाय यदि आपके द्वारा समझौता शर्तों का उल्लंघन किया जाता है तो इसे पुनः आपके विरुद्ध गम्भीर विधिक एवं अनुशासनिक कार्यवाही को आकृष्ट करने वाला कृत्य माना जायेगा और आपके विरुद्ध तदनुसार अविलम्ब उक्तानुसार कार्यवाही की जायेगी।

(विनोद गोस्वामी)
संयुक्त निदेशक

प्रतिलिपि मुख्य प्रशासनिक अधिकारी को इस निर्देश के साथ कि इस आदेश की उक्त की एक प्रति श्री सुनील कुमार की सेवा पुस्तिका में चस्पा करें।

(विनोद गोस्वामी)
संयुक्त निदेशक

11. The petitioner received a notice on 08.08.2019 issued by the Deputy Director (Finance), intimating the petitioner that for the year 2018-19, the adverse entry 'bad' was awarded to him and further the integrity was also deemed as doubtful. It was communicated to the petitioner and further the petitioner was required to make representation against the same within 45 days. The petitioner made representation against the notice dated 08.08.2019 on 22.08.2019 before the respondent no. 2, which was disposed of vide order dated 02.05.2020 by the respondent no. 2. The representation of the petitioner was partly allowed as far as the adverse entry 'bad' was retained and the integrity was ordered to be deleted. While disposing of the representation, the fact that taken into consideration by the authority was some misbehaviour committed by the petitioner with a lady colleague. The adverse entry has been awarded to the petitioner on the basis of the allegations made by the lady colleague. Whenever a letter of request was written to the Chairman, Internal Complaint Committee that the matter be settled amicably by the complainant herself. The Joint Director of the Institution has also directed that the Chairman, Internal Complaint Committee to proceed for conciliation vide order dated 19.06.2018. Thereafter, the parties have amicably settled the dispute and when in the conciliation proceedings, the settlement has been arrived between the parties under Section 10(1) of

Sexual Harassment of Women at Work Place (Prevention, Prohibition & Redressal) Act, 2013, the order of awarding the adverse entry is contrary to provisions of Section 10(4) of Sexual Harassment of Women at Work Place (Prevention, Prohibition & Redressal) Act, 2013, which clearly provides that-

(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.

12. In view of the above, the Tribunal is of the view punishment of awarding adverse entry is contrary to the provisions Section 10 of the Sexual Harassment of Women at Work Place (Prevention, Prohibition & Redressal) Act, 2013 and the same is liable to be quashed.

ORDER

The claim petition is allowed. The impugned orders passed by the respondent authority are hereby set aside. The respondent authority is directed to expunge the adverse entry recorded in the character roll of the petitioner within 30 days from the date of this order. No order as to costs.

(RAJENDRA SINGH)
VICE CHAIRMAN (J)

DATE: APRIL 18, 2023
DEHRADUN
KNP