

RULES OF NATURAL JUSTICE SHOULD BE ADHERED TO IN CASES OF SEXUAL HARASSMENT AT THE WORKPLACE

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In the recent ruling of *Dr. R.K. Pachauri v. Union of India and Others*, the New Delhi Industrial Tribunal (the “**Tribunal**”) has reiterated the importance of following principles of natural justice and confirmed that the Internal Complaints Committee (the “**ICC**”) of The Energy Research Institute had followed the principles of natural justice in resolving the sexual harassment complaint against the accused, Dr. R. K. Pachauri (who has since died).

Background

The accused, Dr. R. K. Pachauri, was the Director General of The Energy Research Institute, and the complainant was a research assistant in the same institute. Both, the complainant and the accused, worked together and purportedly shared a friendly relationship. However, the complainant alleged that she had been sexually harassed by the accused, and she filed a complaint before the ICC. The ICC investigated the matter and through its final inquiry report dated May 19, 2015, held that the accused was guilty of sexual harassment. Aggrieved by the ICC’s report, the accused filed an appeal under Section 18(1) of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (the “**Act**”), alleging that the ICC had not followed the correct procedure and had violated the principles of natural justice.

The Tribunal’s decision

The Tribunal dismissed the appeal and stated that there was no reason for the Tribunal to interfere with the ICC’s report, as there was sufficient evidence on record to establish a case of sexual harassment. The Tribunal held that court interference in such matters should be limited to ensuring that there are no procedural irregularities or violations of the principles of natural justice by the ICC. Courts need not go into the merits of the case once the ICC has adequately and appropriately addressed a complaint of sexual harassment.

Further, the Tribunal laid emphasis on the fact that the object of the Act is to provide speedy and hassle-free remedy to the victims, and therefore, the procedure to be followed must not be too technical or complex. The ICC can devise its own procedure keeping in mind the circumstances of the case and ensuring that natural justice is given. The Tribunal concluded that the ICC’s report clearly depicted that the ICC had followed all principles of natural justice and conducted the proceedings in a fair and impartial manner.

Our comments

The Act does not specify the manner in which an ICC should conduct an inquiry, except that it should adhere to the principles of natural justice. Therefore, it is important for the ICC to provide equal opportunities for both the complainant and the accused to present their case and be heard. It is essential for the ICC members to be neutral and unbiased and ensure that

there are no preconceived notions, thereby providing a safe and supportive environment for all parties involved.

In the case of *L. S. Sibbu v. Air India Limited* (ILR 2016(2) Kerala 591), the accused alleged that the principles of natural justice were not followed as he was not allowed to cross-examine the complainant. The Kerala High Court held that the ICC should have the liberty to decide whether the complainant or the witnesses will be capable of withstanding verbal cross-examination without getting intimidated, and if the ICC is of the view that they would be so intimidated, then the ICC can devise any other method for the accused to put forth his objections, without a face-to-face interrogation.

Similarly, in the case of *Virendra Singh v. Banaras Hindu University and Ors.* ((2015) ILR 1 All 358), the Allahabad High Court held that it is not possible to lay down rigid rules pertaining to the principles of natural justice, as the requirements will depend on the facts and circumstances of the case, the nature of the enquiry and the subject-matter being dealt with. In this case as well, the Tribunal has held that the ICC is free to formulate its own procedures for handling sexual harassment complaints, as long as the procedures are equitable and conform to the principles of natural justice. Therefore, it is important for employers to lay down a fair but not too rigid process in their internal policies pertaining to handling of sexual harassment cases. Further, the ICC members should be trained properly so that they are able to handle complaints seamlessly and in an unprejudiced manner.