



2026:CGHC:8618-DB
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HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 9365 of 2025

{Arising out of order dated 31-7-2025 in Original Application No.525/2025 of the Central Administrative Tribunal, Jabalpur Bench, Jabalpur}

Order reserved on: 10-2-2026

Order delivered on: 18-2-2026

Order (Full) uploaded on: 18-2-2026

Subodh Kumar Deshpandey, S/o Shri D.J. Deshpandey, aged about 53 years, Occupation Senior Technician Services, Personnel No.15525, Bhilai Steel Plant, R/o B-4, Dutt Villa, Saket Colony, Durg, District Durg (C.G.)

... Petitioner

versus

1. Union of India, through the Secretary, Ministry of Steel, Ispat Bhawan, 3rd Floor, Lodhi Road, New Delhi – 110003
2. The Director (Technical) & Acting DIC (Bhilai Steel Plant), SAIL Corporate Office, Ispat Bhawan, 3rd Floor, Lodhi Road, New Delhi – 110003
3. The Executive Director, Medical & Health Services, Bhilai Steel Plant, Bhilai, District Durg (C.G.)
4. General Manager, Maintenance and Services, JLNH & RC, BSP, Bhilai, District Durg (C.G.)
5. The Assistant Manager (HR-Medical), Bhilai Steel Plant, Bhilai, District Durg (C.G.)

... Respondents

For Petitioner	: Mr. Manoj Paranjpe, Senior Advocate with Mr. Kabeer Kalwani, Advocate.
For Respondent No.1/ Union of India	: Mr. Ramakant Mishra, Deputy Solicitor General of India and Mrs. Annapurna Tiwari, Advocate.
For Respondents No.2 to 5/ Bhilai Steel Plant	: Mr. Naman Nagrath, Senior Advocate (through virtual mode) with Mr. P.R. Patankar, Advocate.

For Intervener/Complainant : Mr. P. Chetan Kumar, Advocate.

Division Bench: -
Hon'ble Shri Sanjay K. Agrawal and
Hon'ble Shri Arvind Kumar Verma, JJ.

C.A.V. Order

Sanjay K. Agrawal, J.

1. Invoking the jurisdiction of this Court under Article 226 of the Constitution of India, the petitioner has called in question legality, validity and correctness of order dated 31-7-2025 passed by the Central Administrative Tribunal, Jabalpur Bench, Jabalpur (CAT) in Original Application No.525/2025, by which his application under Section 19 of the Administrative Tribunals Act, 1985, has been rejected finding no merit.

Proceedings before the Central Administrative Tribunal

2. The intervener/complainant being a Safai Karmachari on contractual basis, lodged a complaint of sexual harassment against the petitioner on 26-4-2025 before the President, National Women Commission, New Delhi and copy of the same was also forwarded to the Executive Director (Medical & Health Services), Bhilai Steel Plant and on the same day, the complainant was transferred by the contractor on her own request. However, thereafter, on 28-4-2025, the complaint was forwarded to the Internal Complaints Committee constituted under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (for short, 'the Act of 2013') for appropriate action. The Internal Complaints Committee convened meeting on the next day i.e. on 29-4-2025 and took cognizance of the

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complaint. On 1-5-2025, letter dated 30-4-2025 was served upon the complainant/intervener to provide a copy of the complaint along with relevant documents and list of witnesses. Next day on 2-5-2025, in compliance of the letter served to the complainant, the complaint was again forwarded to the Internal Complaints Committee and enquiry was initiated against the petitioner. On 5-5-2025, the Internal Complaints Committee, vide Annexure P-13, noticed the petitioner herein to submit his explanation which he submitted on 22-5-2025. In the meanwhile, on 30-4-2025, a note sheet was initiated by the DGM (M&S) recommending the transfer of the petitioner on the ground of the complaint of sexual harassment made by the intervener and acting upon the said complaint and the note sheet, on 14-5-2025, vide Annexure P-3, the order of transfer of the petitioner from Jawaharlal Nehru Hospital, Sector-9, Bhilai to Nandini Mines was passed and he was relieved on 19-5-2025 vide Annexure P-4. Thereafter, on 27-5-2025, the petitioner herein being aggrieved by the order of transfer, filed an original application before the CAT being O.A.No.525/2025, in which, though on 2-6-2025, interim order was passed and the order of transfer was kept in abeyance, however, after hearing the parties and after reply having been filed by the other side, by order dated 31-7-2025, the original application was dismissed by the CAT finding no merit against which the petitioner has filed this writ petition on 5-8-2025.

Subsequent Development during pendency of Writ Petition

3. In the writ petition filed, this Court issued notices to the respondents on 13-8-2025 and during the pendency of writ petition, the Internal Complaints Committee submitted its report on 18-8-2025 and supplied a copy of the report to the petitioner holding that the allegation of sexual harassment alleged to have taken place on 26-4-2025 is not established and it has been further held that the Committee has not found any sufficient ground to hold the petitioner guilty, which the petitioner has filed before this Court on 21-8-2025 and thereafter, interim order was passed on 22-8-2025 in favour of the petitioner. Meanwhile, it is the case of the intervener/complainant/aggrieved woman that on 1-9-2025, she has preferred an appeal under Section 18(1) of the Act of 2013 before the appellate authority which is pending consideration.

Submissions on behalf of the Petitioner

4. Mr. Manoj Paranjpe, learned Senior Counsel appearing on behalf of the writ petitioner, would submit that the CAT is absolutely unjustified in dismissing the original application filed by the petitioner herein totally on perverse ground which is absolutely unsustainable and bad in law. He would further submit that once the Internal Complaints Committee (ICC) is seized of the matter, the employer/respondent Bhilai Steel Plant (BSP) could not have passed the order of transfer without there being any recommendation by the ICC in terms of Section 12(1) of the Act of 2013 and that too without any request of the aggrieved woman, as once the ICC is seized of the

matter, the employer/respondent BSP ought to have awaited the statutory recommendation by the ICC, as during the pendency of the complaint, transfer can be made by the employer only on the basis of statutory recommendation made by the ICC. Since the aggrieved woman/intervener did not seek for the petitioner's transfer and consequently, no recommendation was made by the ICC under Section 12(1) of the Act of 2013, the impugned transfer order could not have been passed by the BSP/employer which is absolutely unsustainable and bad in law and as such, the order of transfer as well as the order passed by the CAT rejecting the original application deserve to be set aside. Mr. Paranjpe would rely upon the decisions of the Supreme Court in the matters of **Vishaka and others v. State of Rajasthan and others**¹ and **Somesh Tiwari v. Union of India and others**² to buttress his submission.

Submissions on behalf of Bhilai Steel Plant

5. Mr. Naman Nagrath, learned Senior Counsel appearing on behalf of respondents No.2 to 5/BSP, through virtual mode, would submit that since during the pendency of writ petition before this Court, the ICC has filed its enquiry report, which was filed by the petitioner along with the rejoinder and in the enquiry report, the allegations levelled against the petitioner were not found to be duly proved, no further action is required. He would further submit that Section 19 of the Act of 2013 provides for duties of employer and to provide a safe working environment at the workplace. Thus, the employer/BSP in

1 (1997) 6 SCC 241

2 (2009) 2 SCC 592

exercise of power under Section 19(a) of the Act of 2013, after due approval from the competent authority, has rightly transferred the petitioner from Jawaharlal Nehru Hospital, Sector 9, Bhilai to Nandini Mines. Mr. Nagrath would also submit that Section 19 is not superseded by Section 12 of the Act of 2013 and as such, the CAT is absolutely justified in dismissing the original application filed by the petitioner herein. He would rely upon the decision of the Supreme Court in the matter of **Medha Kotwal Lele and others v. Union of India and others**³ in support of his contention. Therefore, the writ petition also deserves to be dismissed.

Submission on behalf of the Aggrieved Woman/Intervener

6. Mr. P. Chetan Kumar, learned counsel appearing on behalf of the intervener/complainant/aggrieved woman, would submit that against the report submitted by the ICC under Section 12(1) of the Act of 2013, the aggrieved woman has preferred an appeal under Section 18(1) of the Act of 2013, which is pending consideration, therefore, the writ petition deserves to be dismissed.
7. We have heard learned counsel for the parties and considered their rival submissions made herein-above and also gone through the record with utmost circumspection.
8. At this stage, it would be appropriate to notice the Vishaka Guidelines and legislative development subsequent thereto.

³ (2013) 1 SCC 297

Vishaka Guidelines

9. The Supreme Court in **Vishaka** (supra) while considering the issue of rights of working women against sexual harassment in workplaces has held that they have rights to gender equality, to work with dignity and to a working environment safe and protected from sexual harassment or abuse, and further held that in absence of suitable legislation in this sphere, international conventions and norms, so far as they are consistent with the constitutional spirit, can be relied on and issued guidelines directing that guidelines and norms must be strictly observed in all working places by treating them as law declared under Article 141 of the Constitution. It has been observed by their Lordships in paragraphs 16 & 18 as under: -

“16. In view of the above, and the absence of enacted law to provide for the effective enforcement of the basic human right of gender equality and guarantee against sexual harassment and abuse, more particularly against sexual harassment at workplaces, we lay down the guidelines and norms specified hereinafter for due observance at all workplaces or other institutions, until a legislation is enacted for the purpose. This is done in exercise of the power available under Article 32 of the Constitution for enforcement of the fundamental rights and it is further emphasised that this would be treated as the law declared by this Court under Article 141 of the Constitution.

18. Accordingly, we direct that the above guidelines and norms would be strictly observed in all workplaces for the preservation and enforcement of the right to gender equality of the working women. These directions would be binding and enforceable in law until suitable legislation is enacted to occupy the field. These writ petitions are disposed of, accordingly.”

The Act of 2013

10. The Act of 2013 was enacted with effect from 9-12-2013 stating that sexual harassment at a workplace is considered violation of women's

right to equality, life and liberty, and it creates an insecure and hostile work environment, which discourages women's participation in work, thereby adversely affecting their social and economic empowerment and the goal of inclusive growth. Accordingly, the Act of 2013 was enacted to provide protection against sexual harassment of women at workplace and for the prevention and redressal of complaints of sexual harassment and for matters connected therewith or incidental thereto.

11. The word "respondent" has been defined in clause (m) of Section 2 of the Act of 2013 as a person against whom the aggrieved woman has made a complaint under section 9. Chapter II of the Act of 2013 prescribes Constitution of Internal Complaints Committee by every employer of a workplace by an order in writing to be known as the "Internal Complaints Committee" and composition of Committee Members has been laid down in Section 4(2) of the Act. Chapter IV states about Complaint. According to Section 9(1), any aggrieved woman may make, in writing, a complaint of sexual harassment at workplace to the Internal Committee if so constituted, within a period of three months from the date of incident and in case of a serious of incidents, within a period of three months from the date of last incident. Section 11 contemplates Inquiry into complaint by the Internal Committee or the Local Committee, as the case may be. Chapter V deals with Inquiry into complaint. Section 12 states about Action during pendency of inquiry and Section 13 deals with Inquiry

report. For the sake of convenience, it would be appropriate to notice Section 12 of the Act of 2013, which states as under: -

“12. Action during pendency of inquiry.—(1) During the pendency of an inquiry, on a written request made by the aggrieved woman, the Internal Committee or the Local Committee, as the case may be, may recommend to the employer to—

(a) transfer the aggrieved woman or the respondent to any other workplace; or

(b) grant leave to the aggrieved woman up to a period of three months; or

(c) grant such other relief to the aggrieved woman as may be prescribed.

(2) The leave granted to the aggrieved woman under this section shall be in addition to the leave she would be otherwise entitled.

(3) On the recommendation of the Internal Committee or the Local Committee, as the case may be, under sub-section (1), the employer shall implement the recommendations made under sub-section (1) and send the report of such implementation to the Internal Committee or the Local Committee, as the case may be.”

12.A careful perusal of Section 12(1) of the Act of 2013 would show that it contemplates the action during the pendency of inquiry under Section 13. It further mandates that during the pendency of an inquiry, on a written request made by the aggrieved woman, the Internal Complaints Committee or the Local Committee, as the case may be, may recommend to the employer to transfer the aggrieved woman or the respondent to any other workplace or grant leave to the aggrieved woman up to a period of three months or grant such other relief to the aggrieved woman as may be prescribed. As such, the *sine qua non* for making recommendation to the employer for

transfer during the pendency of the inquiry is the written request of the aggrieved woman for her transfer or the transfer of the person against him the complaint has been made, to any other workplace. Therefore, written request by the aggrieved woman is *sine qua non* for exercising the power of making recommendation under Section 12(1)(a) of the Act of 2013 by the Internal Complaints Committee. Furthermore, it also contemplates that during the pendency of the complaint, the employer would make the order of transfer only on the recommendation of the Internal Complaints Committee. The reason for that is, during the pendency of inquiry, any action, particularly, transfer has to be made only on the recommendation made by the ICC under Section 12(1) of the Act of 2013 and till then, the employer has to hold its decision on transfer of the concerned respondent and await the recommendation of the ICC once the complaint is taken cognizance of by the ICC and till the inquiry is completed by the ICC.

13. By virtue of sub-section (3) of Section 12 of the Act of 2013, on the recommendation of the ICC, the employer has to implement the recommendations made under sub-section (1) and send the report of such implementation to the ICC.

14. As such, during the pendency of the complaint, the employer is supposed to await the statutory recommendation under Section 12(1) (a) for transfer of the aggrieved woman or the respondent to any other workplace. Thus, the Internal Complaints Committee has to make statutory recommendation to the employer on the issue of

transfer considering the seriousness and material available on record.

15. The inquiry report has to be submitted under Section 13(1) of the Act of 2013 to the employer, or as the case may be, the District Officer within a period of ten days from the date of completion of the inquiry and such report be made available to the concerned parties. By virtue of sub-section (2) of Section 13, if the ICC arrives at the conclusion that the allegation against the respondent has not been proved, it shall recommend to the employer that no action is required to be taken in the matter and if the allegation has been proved, it shall recommend to the employer to take action under clauses (i) and (ii) of sub-section (3) in such manner as may be prescribed therein.
16. The Supreme Court in **Medha Kotwal Lele** (supra) has held that the findings and the report of the Complaints Committee shall not be treated as a mere preliminary investigation or inquiry leading to a disciplinary action but shall be treated as a finding/report in an inquiry into the misconduct of the delinquent, and observed as under in paragraph 44.1 of its report: -

“**44.1.** The States and Union Territories which have not yet carried out adequate and appropriate amendments in their respective Civil Services Conduct Rules (by whatever name these Rules are called) shall do so within two months from today by providing that the report of the Complaints Committee shall be deemed to be an inquiry report in a disciplinary action under such Civil Services Conduct Rules. In other words, the disciplinary authority shall treat the report/findings, etc. of the Complaints Committee as the findings in a disciplinary inquiry against the delinquent employee and shall act on such report accordingly. The findings and the report of the Complaints Committee shall not be treated as a mere

preliminary investigation or inquiry leading to a disciplinary action but shall be treated as a finding/report in an inquiry into the misconduct of the delinquent.”

17. Similarly, Section 19 of the Act of 2013 prescribes Duties of employer and clause (a) of it provides that every employer shall provide a safe working environment at the workplace which shall include safety from the persons coming into contact at the workplace.
18. The aforesaid discussion on the decision of the Supreme Court in **Vishaka** (supra) and on the Act of 2013, which came into force thereafter on 9-12-2013 and further, in light of the decision in **Medha Kotwal Lele** (supra) in which it has been held that the inquiry report under Section 13 of the Act of 2013 will be treated as a finding/report in an inquiry into the misconduct of the delinquent, would bring us to the question as to whether during the pendency of an inquiry under Section 12(1), the employer/BSP is justified in transferring the petitioner without awaiting the statutory recommendation from the Internal Complaints Committee under Section 12(1)(a) of the Act of 2013?

Discussion and Analysis

19. Admittedly, the Internal Complaints Committee while exonerating the petitioner from the charges levelled against him has clearly held in its findings recorded in paragraphs 9 read with paragraph 7 and 25 of the Inquiry Report that the aggrieved woman did not make any written complaint for change of workplace either of the respondent or of herself to the Committee, though the contractor had voluntarily changed the workplace of the aggrieved woman with effect from the

date of complaint i.e. 26-4-2025. Paragraphs 7 and 25 of the Inquiry

Report state as under: -

“7) It is found that in terms of the request made by the complainant, contractor has already changed here work place w.e.f. 26.04.2025 and same is recorded in hand written complaint. Complaint did not submit any request for change of workplace either of Respondent or herself to the committee.

25) In her final submission, the complainant stated that she had requested the Internal Committee to transfer the Respondent. However, committee minutely examined that records and found that no such written request or as for as committee could recollect even no verbal request was ever submitted/made to the Committee. In her letter dated 26.04.2025, she only requested a change in her workplace, which was immediately effected by the Department/ Contractor. The aforesaid submission of the complainant is without basis and false therefore fall flat on the ground.”

20.As such, it is quite vivid that during the pendency of inquiry, the aggrieved woman did not make any request to the Committee either for transfer of herself or for transfer of the respondent from that place to any other workplace which was sine qua non for making statutory recommendation for transfer to the employer by the Internal Complaints Committee. Therefore, statutory recommendation was not made by the ICC for transfer of the petitioner herein. However, immediately after the complaint, on 30-4-2025, a note sheet was recorded by the DGM (M&S) recommending the transfer of the petitioner on the ground of complaint of sexual harassment and ultimately, he was transferred by order dated 14-5-2025 from Jawaharlal Nehru Hospital, Sector 9, Bhilai to Nandini Mines.

21. In the instant case, complaint of the aggrieved woman dated 26-4-2025 was forwarded to the Internal Complaints Committee on 28-4-2025 and meeting of the said Committee was convened on 29-4-2025, cognizance was taken by the ICC and notices were issued accordingly. Once the ICC was seized of the matter with effect from 29-4-2025 and it had right and authority to make statutory recommendation for transfer of the respondent under Section 12(1) (a) of the Act of 2013, the employer ought to have hold its hand and should not have made transfer on its own. As, during the pendency of inquiry by the ICC, all the power to make recommendation of transfer of the respondent gets vested into the ICC and the employer has to await the statutory recommendation from the Committee for transferring the respondent i.e. the person against whom the compliant is made i.e. the petitioner herein for affecting transfer. Though the power of transfer is vested with the employer even during the pendency of inquiry under Section 12(1)(a) of the Act of 2013, but during the pendency of inquiry, power of transfer by the employer has to be exercised only on the statutory recommendation by the Committee. If the argument advanced on behalf of the respondent BSP is accepted that general power of transfer can be exercised even during the pendency of inquiry without recommendation, the provision contained in Section 12(1)(a) of the Act of 2013 would become otiose and the object sought to be achieved by Section 12 would also be frustrated, as during the period of inquiry, the appropriate authority to consider the place where to

be transferred or the question of transfer would be considered only by the ICC and upon the appropriate recommendation, if any, of the said ICC , the order of transfer will be passed by the BSP/employer.

22. At this stage, Mr. Naman Nagrath, learned Senior Counsel appearing on behalf of the employer – Bhilai Steel Plant (BSP)/respondents No.2 to 5 herein, would rely upon and refer to the provision contained in Section 19(a) of the Act of 2013, which states as under: -

“19. Duties of employer.—Every employer shall—

(a) provide a safe working environment at the workplace which shall include safety from the persons coming into contact at the workplace;

(b) to (j) xxx xxx xxx”

23. A careful perusal of the aforesaid provision would reveal that Section 19 of the Act of 2013 lays down duties of employer and one of the duties under clause (a) is to provide a safe working environment at the workplace which shall include safety from the persons coming into contact at the workplace. However, it has already been held in the foregoing paragraphs that power of transfer even during the pendency of inquiry still vests with the employer/BSP as apparent from Section 12(3) of the Act of 2013, which clearly states that on the recommendation of the ICC under Section 12(1), the employer shall implement the recommendations made by the ICC under Section 12(1)(a) of the Act of 2013, but the only caveat carved out is that during the pendency of inquiry, power of transfer has to be exercised on the recommendation of the statutory committee constituted under Section 4(1) of the Act of 2013 i.e. the Internal Complaints

Committee. Therefore, the argument placed on Section 19(a) of the Act of 2013 would not be much helpful to the BSP.

24. Consequently, the argument raised on behalf of respondents No.2 to 5 that Section 19 is not superseded by Section 12 of the Act of 2013 also sans merit, as Section 12(1)(a) is with regard to statutory recommendation of the Internal Complaints Committee during the pendency of inquiry, whereas, Section 19(a) specifies general duties of the employer and under Section 12(1)(a), only the statutory recommendation has to be made by the ICC for transfer, but, ultimately, the power of transfer vests with the employer during the inquiry period. Therefore, the argument in this regard sans merit and is hereby rejected.

25. Further argument is that in the final recommendation of the Internal Complaints Committee, the Committee has found the allegation of sexual harassment took place on 26-4-2025 not proved due to inconsistent and contradictory statements by the complainant/aggrieved woman and her witness. As far as the finding that allegations are not established and there are no sufficient grounds to hold the respondent/petitioner herein guilty of sexual harassment is concerned, it is subject to appeal under Section 18 of the Act of 2013 before the appellate authority and as per the statement of the intervener, statutory appeal is pending before the appellate authority, therefore, we are refraining from making any observation with regard to that finding. Consequently, we are of the considered opinion that the respondent employer – BSP is absolutely unjustified

in making the order of transfer of the petitioner herein during the pendency of inquiry under Section 12(1)(a) of the Act of 2013, more particularly, when no written request was made by the aggrieved woman to the ICC and furthermore, even the aggrieved woman was immediately transferred to the safe place by the concerned contractor. Therefore, the employer BSP could not have exercised the power of transfer upon the petitioner herein during the pendency of inquiry without request by the aggrieved woman and without statutory recommendation by the ICC under Section 12(1)(a) of the Act of 2013.

26. In that view of the matter, the BSP has legally erred in exercising the power of transfer during the pendency of inquiry without awaiting the statutory recommendation of transfer by the Internal Complaints Committee, which the CAT has failed to notice and dismissed the original application.

Conclusion

27. For the foregoing reasons, the order of transfer dated 14-5-2025 (Annexure P-3) and the reliving order dated 195-2025 (Annexure P-4), both, are hereby quashed. Consequently, the order impugned passed by the CAT dated 31-7-2025 (Annexure P-1) is also quashed.

28. The writ petition is allowed to the extent indicated herein-above. However, there will be no order as to cost(s).

29. However, it is again made clear that this Court has not expressed any opinion on the inquiry report and the appellate authority will be free

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to decide the appeal on its own merit, in accordance with law, without being influenced by any of the observations made in this order.

Sd/-
(Sanjay K. Agrawal)
Judge

Sd/-
(Arvind Kumar Verma)
Judge

Soma