
(1997) 07 DEL CK 0032

In the Delhi High Court

Case No : L.P.A. No's. 27 and 79 with C.M. No's. 297 and 722-23 of 1997

Apparel Export Promotion Council and Another

APPELLANT

Vs

A.K. Chopra and Others

RESPONDENT

Date of Decision : 15-07-1997

Acts Referred:

Citation : (1997) 4 AD 646 : (1997) 68 DLT 303 : (1997) 42 DRJ 526

Hon'ble Judges : S.K. Mahajan, J; Mahinder Narain, J

Bench : Division Bench

Judgement

Mahinder Narain, J.—These matters can be disposed of at the show cause state. Admit.

The allegations which had been made in this case, were A. K. Chopra, P.S. To Chairman, APEC had tried to assault Ms. Suchitra Vishnoi, Clerk-cum-Typist physically. This assault is alleged to have taken place in Taj Palace Hotel. The allegation was that Ms. Suchitra Vishnoi was taken to a room on the pretext of taking dictation from the Chairman of the Apparel Export Promotion Council.

We have been taken in detail through the evidence/deposition of Ms. Suchitra Vishnoi. No part of that evidence discloses that A. K. Chopra even managed to make the slightest physical contact with the lady. The entire deposition relates that A. K. Chopra tried to touch her.

As we have said that no attempts made, allegedly by A. K. Chopra succeeded in making physical contact with Ms. Suchitra Vishnoi, even in the narrow confines of a Hotel "lift".

2. To our mind, on such evidence as that was produced before the Enquiry Officer, it is not even possible to come to a conclusion that there is an attempt to molest" as there have been no physical contact. There being no physical contact between A. K. Chopra and Ms. Suchitra Vishnoi, there cannot be any attempt to "tried to molest on the part of A. K. Chopra".

The instant case is, Therefore, one in which there is no evidence at all of any kind of molestation or assault on the person of Ms. Suchitra Vishnoi.

The case is clearly covered by observations of the Supreme Court in B.C. Chaturvedi Vs. Union of India and others, wherein the Supreme Court had held that there had to be some evidence before the Enquiry Officer for it to come to the conclusion that the allegations made are true; that such event or a thing actually happened. In this case, the appellant has been dismissed from service. This action, in our view, has been taken without there being any evidence. Such an approach could not be adopted.

3. In so far as this part of the findings of the Hon"ble Single Judge is concerned, we agree with the Hon"ble Single Judge that in the instant case there is only an allegation that A. K. Chopra "tried to molest" and not that he actually did, and that such a ground is not sufficient ground for dismissal of A. K. Chopra from service. He was rightly held entitled to continue with his employment with Apparel Export Promotion Council.

4. As far as the appeal of respondents A. K. Chopra being L.P.A. No. 79 of 1997 is concerned, wherein he claims back wages, we are of the opinion that in view of the fact that there was no evidence of any assault, the order of his reinstatement without back wages was not justified. Since reinstatement has been ordered in this case, we are of the view that A. K. Chopra should be reinstated with back wages. To that extent, the appeal of A. K. Chopra is allowed.

In view of these findings, we are not going into any other issue in these appeals. The appeal filed by the Apparel Export Promotion Council is dismissed, and the appeal filed by A. K. Chopra is partly allowed, as aforesaid. No costs.