

## Dr. Lakhwinder P. Singh vs Complainant (Name Withheld) on 9 December, 2016

IN THE COURT OF SH. CHANDRA GUPTA:  
PRESIDING OFFICER INDUSTRIAL TRIBUNAL,  
KARKARDOOMA COURTS, DELHI

RCANo. 03/15 (New No.02/16)

Dr. Lakhwinder P. Singh  
S/o Sh. Sadhu Singh  
R/o 135, Platinum Heights,  
Sector 18-B, Dwarka, New Delhi-110078 .....Appellant

Versus

1. Complainant (Name Withheld)  
Private Secretary to Director, IIHMR,  
At- Plot No.3, Sector 18-A, Dwarka,  
New Delhi-110078.
2. Indian Institute of Health  
Management Research (IIHMR)  
Through Corporate Director  
of IIHMR Group  
At- 1 Prabhu Dayal Marg,  
Sanganer, Airport Road,  
Jaipur-302029  
Also at- Plot No.3,  
Sector 18-A, Dwarka,  
New Delhi-110078. .... Respondents

### ORDER

1. Vide instant appeal, appellant who is stated to be the Director of International Institute of Health Management Research (IIHMR), Delhi, is aggrieved of the Inquiry report of the Internal Complaints Committee of the respondent no.2 International Institute of Health Management Research (IIHMR), Delhi undated (page nos. 1 to 14), true copy from page nos.15 to 29 has been filed by him as Annexure A alongwith his instant appeal, on record.

2. It is the submission of Ld. Counsel for appellant that the rules of natural justice under which the proceedings of Internal Complaints Committee are to be held/ conducted as stipulated vide rule 7(4) of The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013 have not been complied with on the part of

Internal Complaints Committee of respondent no.2, in that, copies of the statements of the complainant and statements of witnesses of the complainant relied upon by Internal Complaints Committee in coming to its impugned findings vide its report as abovesaid inter alia "Given all these points, questions and doubts, it would not be reasonable for the Committee to absolve the respondent from the alleged sexual harassment"

at page no. 14 of the same have not been supplied on the part of the Internal Complaints Committee to the appellant nor opportunity to cross examine them during the proceedings thereby rendering the impugned findings of the Internal Complaints Committee of respondent no.2, operative part of which is quoted as hereinabove, as null and void in law being admittedly in violation of principles of natural justice.

3. Ld. Counsel for appellant has specifically relied upon the assertions of Internal Complaints Committee vide para no.3.0 (4) of its impugned report as under:□  
"The respondent requested the Committee to provide the names and addresses of all the individuals named by the complainant as well as the minutes of the examinations of all the witnesses(Ref:Annexure 3). The committee deliberated on it and decided not to share the personal details of the witnesses or their statements with the respondent as the Committee felt that the respondent may use his position (as Director) to influence the witnesses which may affect the impartiality of inquiry and the fairness of the investigation. This was also to protect the witnesses from any possible intimidation at any time by the respondent, who, albeit on enforced leave was still holding the position of Director IIHMR Delhi. All the emails (exchanged between the Committee and the respondent) are placed as Annexure

3."

4. It is further the submission of the Ld. Counsel for appellant that copy of the complaint of the complainant dated 03.06.2015 had not been supplied on the part of the Internal Complaints Committee of respondent no.2 at the first instance and had been given to him belatedly on 23.06.2015 in response of his asking for the same vide his email dated 22.06.15 to the Chairperson Dr. Preeta G.S. of Internal Complaints Committee of respondent no.2 (Annexure F at page no. 36 of the appeal) vide her email dated 23.06.15 to the appellant (Annexure H at page no. 39 of the appeal) i.e. immediately before the date fixed for his appearance before the Internal Complaints Committee on 24.06.15 at 11.30 pm in the same.

5. It is further the submission of Ld. Counsel for appellant that even vide email dated 24.06.15 (Annexure K at Page no. 44 of the appeal) of Chairperson Dr. Preeta G.S. of Internal Complaints Committee of respondent no.2 to the appellant, request of

a p p e l l a n t f o r p r o v i s i o n o f supporting documents or the names and addresses of the witnesses of the complainant in support of her complaint vide email dated 24.06.15 of the appellant to Chairperson Dr. Preeta G.S. of Internal Complaints Committee of respondent no.2 (Annexure J at page no. 42 of the appeal) in order for him to effectively prepare his defence and statements in response to the same at the adjourned date of hearing viz 01.07.2015 fixed in this regard before the Internal Complaints Committee of respondent no.2 (IIHMR) has been declined on the part of Chairperson Dr. Preeta G.S. of Internal Complaints Committee of respondent no.2, thereby prejudicing his defence to the statements and imputations of alleged misconduct on account of Sexual Harassment of Women at Workplace as provided under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, as alleged against him by the complainant.

6. It is further the submission of Ld. Counsel for appellant that even the request of the appellant vide his email dated 26.06.15 to the Chairperson Dr. Preeta G.S. of Internal Complaints Committee of respondent no.2 (Annexure L at Page 47 of the appeal) to the effect that in the absence of provision of supporting documents and list of witnesses, if any, given by the complainant which are mandatorily to be given to the appellant as provided under Rule 7(2) of Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013, he may at least be provided with the contents of statements and the documents relied upon by the complainant in support of her complaint, keeping in mind principles of natural justice ostensibly in order for him to prepare his defence to the same at the time of his appearance before the Internal Complaints Committee of the respondent no.2 on the date of hearing before it fixed in this regard, has not been considered/ replied by respondent no.2 thereby seriously prejudicing the defence of the appellant before the Internal Complaints Committee of respondent no.2 on the date of his appearance before it in this regard viz 01.07.15 at 2 pm.

7. It is further the submission of Ld. Counsel for appellant that even the copies of the proceedings recorded by Internal Complaints Committee of respondent no.2 dated 15.06.15 & 02.07.15 when admittedly the complainant had been examined and dated 01.07.15 & 16.7.15 when the respondent had been examined as also the statements of witnesses recorded as mentioned by Internal Complaints Committee in para no. 3.0 (7) (Page no.3) of its report alongwith copies of the records examined by it as mentioned in para no. 3.0 (8) (page no.4) of its report have not been provided to the appellant on the part of the Internal Complaints Committee of the respondent no.2 either at the time of conducting relevant proceedings or even thereafter till the conclusion of the proceedings before the Internal Complaints Committee of the respondent no.2 in respect of the subject complaint of the complainant against the appellant,

allegedly containing statements of imputations of misconduct as alleged by the complainant against the appellant, necessitating the proceedings before the Internal Complaints Committee of the respondent no.2 under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, culminating in the ibid/impugned report of the Internal Complaints Committee of respondent no.2 against the appellant (page nos. 1 to 14) Annexure A to the appeal (external page nos. 16 to

29), as abovesaid, or even alongwith the report.

8. It is further the submission of Ld. Counsel for appellant that even the report of Internal Complaints Committee of respondent no.2 Annexure A to the appeal had not been supplied on the part of respondent no.2 to the appellant and which had only been given on the representations of the appellant to the Chairperson Dr. Preeta G.S. of Internal Complaints Committee of respondent no.2 vide his emails dated 21.08.15 and 25.08.15 (Annexures N & O at page nos. 55 and 56 respectively of the appeal) in this regard, where upon the appellant has again represented to the Chairperson Dr. Preeta G.S. of Internal Complaints Committee of respondent no.2 vide his email dated 26.08.15 (Annexure B at Page no. 30 of the appeal) that though he has been given the report and covering letter (14 pages report and one page cover letter) whereas the report mentions of roughly 27 annexures and none of it including the statements have been provided to the appellant for the reasons best known to the sender, which may be provided to him on the part of Internal Complaints Committee of respondent no.2 at the earliest.

9. It is thus the submission of Ld. Counsel for appellant that apart from non provision of the relevant documents i.e. complaint of the complainant as also the statements of the complainant and the witnesses of the complainant along with other documents filed by the complainant in support of her complaint before the Internal Complaints Committee of the respondent no.2 to the appellant, the opportunity to cross examine the complainant and her witnesses has also not been provided to the appellant on the part of the Internal Complaints Committee of the respondent no.2, thereby seriously prejudicing the defence of the appellant in respect of the statements of imputations constituting alleged misconduct under the provisions of Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, on the part of the complainant and her witnesses vide her subject complaint and statements against the appellant, before the Internal Complaints Committee of the respondent no.2, thereby rendering the report and findings of the Internal Complaints Committee of the respondent no.2 against the appellant, as abovesaid, nonest, null and void under the provisions of the Sexual Harassment of Women at Workplace

( P r e v e n t i o n , P r o h i b i t i o n a n d Redressal) Act, 2013 governing the constitution and conduct of the same.

10. It is further the submission of Ld. Counsel for appellant that even the recommendations as envisaged under section 13(3) of The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 have not been made by the Internal Complaints Committee of the respondent no.2 in its subject report, as abovesaid, thereby disclosing non application of mind on its part in conducting and preparing the same.

11. Ld. Counsel for appellant has filed written submissions and relied upon citations in support of his submissions as under:□

1. Income Tax officer, Cannanore vs. MK Mohammed Kunhi AIR 1969 SC 430

2. Ayaaubkhan Noorkhn Pathan vs. State of Maharashtra and Ors. AIR 2013 SC 58

3. State of Madhya Pradesh vs. Chintaman Sadashiva Waishampayan AIR 1961 SC 1623

4. Prof. Bidyug Chakraborty vs. Delhi University and Ors. 2009 (112) DRJ 91 (DB)

5. Avinash Mishra vs. UOI 215 (2014) DLT 714 (DB)

6. Harbhajan Singh vs. Airports Authority of India 2013 (138) DRJ 116

12. Ld. Counsel for respondent no.1/ complainant and Ld. Counsel for respondent no.2/IIHMR argued to the contrary. It has been submitted on behalf of respondent no.2 that reply has been filed on behalf of said respondent to the instant appeal filed on behalf of appellant in opposition to the same as also it has been submitted on behalf of respondent no.1/ complainant that an application under Order 7 Rule 11 CPC read with other enabling provisions of law has been moved for dismissal of the present appeal on the ground of the same being not maintainable in view of the appellant not falling in the category of workman as envisaged u/s 2(s) of Industrial Disputes Act, 1947 (as amended upto date) by virtue of being employed with respondent no.2 / IIHMR as Director (Administration) as also being Teaching Faculty Member of respondent no.2/ IIHMR, Dwarka, New Delhi holding degree of Ph.D. (Anthropology) i.e. leading teaching faculty of respondent no.2 Institute (IIHMR) and also working in Managerial capacity looking after administration of Dwarka Office of the respondent no.2 and accordingly appellant is not workman falling within the ambit of section 2(s) of Industrial Disputes Act, 1947 (as amended upto date).

13. It is further alleged on behalf of respondent no.1/complainant that respondent no.2/IIHMR is not an industry under the provisions of Section 2(k) of Industrial Disputes Act, 1947 (as amended upto date) and accordingly appellant cannot invoke jurisdiction of this Tribunal in respect of his alleged grievances against the respondents vide his subject appeal. It is further submitted by Ld. Counsel for respondent no.1/complainant that service rules governing terms and conditions of the service of the appellant with respondent no.2/IIHMR have not been filed on the part of the appellant, on record, and accordingly, it has nowhere been disclosed by the appellant as to what is the enabling provision of law which entitles him to invoke the statutory jurisdiction of this Tribunal in respect of his grievance under the provisions of Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 vide his instant appeal which in the opinion of the Ld. Counsel for respondent no.1/complainant is not open to the appellant by virtue of the appellant being working as Director (Administration) with the respondent no.2/IIHMR performing managerial and teaching function at the respondent no.2 Institute.

14. It has further been averred on behalf of respondent no.1/complainant that it is a fact which emerges from the record of the appellant that the appellant has not disclosed about his official status, has not claimed himself to be workman as also has not disclosed as to how extraordinary statutory jurisdiction of this Hon'ble Court/Tribunal is sought to be invoked under the provisions of section 18 of Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 as has been done by the appellant in respect of his grievances under the same vide his present appeal whereas for redressal of his service related issues he is liable to approach civil court and Hon'ble High Court. That in view of the present appeal of the appellant under the provisions of section 18 of The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 read with Rule 11 of The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013 read with section 2A of The Industrial Employment (Standing Orders) Act, 1946 read with section 151 CPC, 1908 under which provisions of law same has ostensibly been filed, not disclosing entitlement of the appellant to approach this Tribunal in respect of the subject matter of the same under the ibid provisions of law, same is not maintainable in this court and merits outright dismissal.

15. Ld. Counsel for complainant has also filed written arguments and relied upon citations as under: □

1. Miss A. Sundarambal vs. Govt. of Goa, Daman and Diu and Ors. (1988) 4 SCC 42

2. Rajasthan State Road Transport Corporation and Anr vs. Bal Mukund Bairwa (2009) 4 SCC 299

16. It is seen from the record that the written submissions on the application u/O 7 Rule 11 CPC filed on behalf of respondent no.1/complainant has been filed on behalf of appellant vide which contents of the same have been denied with the further assertions that the appeal shall lie before this Tribunal in view of the specific provision mandated under Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 specifically u/s 18 of the said Act r/w Rule 11 of Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013 which provide for appeal to the appellate authority notified under clause (a) of section 2 of the Industrial Employment (Standing Orders) Act, 1946. That in Delhi the Appellate Authority is the Hon'ble Industrial Tribunal as per the notification issued by the government in this regard. Ld. Counsel for the appellant has relied upon copy of notification no.F.6(3)/S.O.97□Lab/122 dated 06.08.04 of Govt of NCT of Delhi in this regard, on record.

17. It is seen from the record that respondent no.2/IIHMR vide reply filed in opposition to the instant appeal of the appellant has taken preliminary objection inter□ alia that instant appeal of the appellant is an abuse of process of court since the appeal is not maintainable either in law or facts and also on merits inter□ alia that the averments of the appeal are wrong and denied being not correct; that the copy of the report had been delivered to the appellant on 26.08.15 which had been prepared and sent by the Internal Complaints Committee of respondent no.2 to it within the stipulated period of ten days; contention of the appellant that principles of natural justice have not been complied with on the part of the Internal Complaints Committee of respondent no.2 in conducting subject enquiry into the complaint of the respondent no.1/complainant against the appellant under the provisions of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 is denied and it was submitted that due opportunity was provided to the appellant to present his case before the Internal Complaints Committee of the respondent no.2 in opposition to the said complaint of the respondent no.1/complainant against him under enquiry before the same.

18. It has further been averred inter□ alia and argued by the Ld.Counsel for respondent no.2/IIHMR that the instant appeal of the appellant is not maintainable in law in view of the appeal under the provisions of Section 18 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 read with Rule 11 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013 as the present purported appeal, being only maintainable against the recommendations made under sub section (2) of section 13 or under clause (i) or clause (ii) of sub section (3) of section 13 (as is the case in the present appeal) or sub section (1) or sub section (2) of section 14 or section 17 or non implementation of

such recommendations as provided in respect of an appeal from the same vide section 18 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, whereas no such recommendations have been made on the part of the Internal Complaints Committee of the respondent no.2 i.e. under the statutory provisions of clause (i) or clause (ii) of sub section (3) of section 13 (the case of the appellant) in its enquiry report (page nos. 1 to 14) annexed as Annexure A (external page 16 to 19) to the subject appeal of the appellant wherein on the last page viz internal page no.14 (external page no.29) the operative part of the report reads as "Given all these points, questions and doubts, it would not be reasonable for the Committee to absolve the respondent from the alleged sexual harassment" as already quoted hereinabove.

19. It is thus the submission of Ld. Counsel for respondent no.2 /IIHMR that present appeal of the appellant is not maintainable in law in view of the same being ostensibly under the provisions of section 18 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 read with rule 11 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013 which provided for an appeal only against the recommendations inter alia made under clause (i) or clause (ii) of sub section (3) of section 13 or for non implementation of such recommendations of the Internal Complaints Committee of respondent no.2, by virtue of no such recommendations having been made on the part of the Internal Complaints Committee of the respondent no.2 qua the appellant in the operative part of its subject report (page nos. 1 to 14) annexed as annexure A (external page nos.16 to 29) by the appellant alongwith his instant appeal.

20. Here, it would be advantageous to quote the provisions of sections 13 & 18 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 as also the provisions of Rule 11 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013 as under:

"13. Inquiry report (1) On the completion of an inquiry under this Act, the Internal Committee or the Local Committee, as the case may be, shall provide a report of its findings 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.

(2) Where the Internal Committee or the Local Committee, as the case may be, arrives at the conclusion that the allegation against the respondent has not been proved, it shall recommend to the employer and the



District Officer that no action is required to be taken in the matter.

(3) Where the Internal Committee or the Local Committee, as the case may be, arrives at the conclusion that the allegation against the respondent has been proved, it shall recommend to the employer or the District Officer, as the case may be□

(i) to take action for sexual harassment as a misconduct in accordance with the provisions of the service rules applicable to the respondent or where no such service rules have been made, in such manner as may be prescribed;

(ii) to deduct, notwithstanding anything in the service rules applicable to the respondent, from the salary or wages of the respondent such sum as it may consider appropriate to be paid to the aggrieved woman or to her legal heirs, as it may determine, in accordance with the provisions of section 15:

Provided that in case the employer is unable to make such deduction from the salary of the respondent due to his being absent from duty or cessation of employment it may direct to the respondent to pay such sum to the aggrieved woman;

Provided further that in case the respondent fails to pay the sum referred to in clause (ii), the Internal Committee or, as the case may be, the Local committee may forward the order for recovery of the sum as an arrear of land revenue to the concerned District Officer.

(4) The employer or the District Officer shall act upon the recommendation within sixty days of its receipt by him.

18. Appeal□(1) Any person aggrieved from the recommendations made under sub□section (2) of section 13 or under clause (i) or clause (ii) of sub section (3) of section 13 or sub□section (1) or sub□section (2) of section 14 or section 17 or non□implementation of such recommendations may prefer an appeal to the court or tribunal in accordance with the provisions of the service rules applicable to the said person or where no such service rules exist then, without prejudice to provisions contained in any other law for the time being in force, the person aggrieved may prefer an appeal in such manner as may be prescribed.

(2) The appeal under sub□section (1) shall be preferred within a period of ninety days of the recommendations.

Rule 11. Appeal □ Subject to the provisions of section 18, any person aggrieved from the recommendations made under sub □ section (2) of section 13 or under clause (i) or clause (ii) of sub □ section (3) of section 13 or sub □ section (1) or sub □ section (2) of section 14 or section 17 or non □ implementation of such recommendation may prefer an appeal to the appellate authority notified under clause

(a) of section 2 of the Industrial Employment (Standing Orders) Act, 1946 (20 of 1946)"

21. Vide above provisions of law, it has been specifically stipulated that any appeal under the provisions of section 18 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 read with rule 11 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013 would lie only against the recommendations of the concerned Internal Committee or the Local Committee (in this case the Internal Complaints Committee of the respondent no.2) made inter □ alia under clause (i) or clause (ii) of sub section (3) of section 13 (pertaining to / subject matter of the instant appeal) or non implementation of such recommendations as also it being further stipulated under the provisions of sub section (1) of section 18 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 governing filing of appeal on the part of the aggrieved person against the impugned recommendations as outlined in the provisions of section 13 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (pertaining to him/her) alongwith sub section (2) of the same that the appeal would be moved "to the court or tribunal in accordance with the provisions of the service rules applicable to the said person or where no such service rules exist then, without prejudice to provisions contained in any other law for the time being in force, the person aggrieved may prefer an appeal in such manner as may be prescribed" with the further stipulation vide sub section (2) of the same that "the appeal under sub section (1) shall be preferred within a period of 90 days of the recommendations" as also vide Rule 11 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013 also in respect of an "Appeal" in furtherance to the provisions of ibid Act vide section 18 (1) and (2) of the same in this regard, as abovesaid, it has been stipulated that "subject to the provisions of section 18, any person aggrieved from the recommendations made under sub □ section (2) of section 13 or under clause (i) or clause (ii) of sub section (3) of section 13 or sub □ section (1) or sub □ section (2) of section 14 or section 17 or non □ implementation of such recommendations may prefer an appeal to the appellate authority notified under clause (a) of section 2 of the Industrial Employment (Standing Orders) Act, 1946 (20 of 1946)"

22. It is thus seen from the provisions of section 18 (1) and (2) of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 read with rule 11 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013 governing the institution of an appeal by an aggrieved person for redressal of his grievance under the provisions of the said act that the jurisdiction of this Tribunal under the provisions of Rule 11 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013 by virtue of being appellate authority notified under clause (a) of section 2 of Industrial Employment (Standing Orders) Act, 1946 vide relevant notification of the competent authority in this regard as relied upon by the appellant in the present case can only be invoked and/or is only available to the appellant/ aggrieved person under the provisions of section 18 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 only in case there exist no service rules applicable to the appellant/ concerned/ aggrieved person governing the terms and conditions of his/her service with the respondent providing for such an appeal.

23. It is seen from the record that the appellant has nowhere alleged in his appeal that there are no service rules applicable to him providing for an appeal as stipulated under the provisions of section 18 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 read with rule 11 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013 as also no contract of service governing terms and conditions of employment of the appellant with the respondent no.2 has been filed on the part of the respondent no.2, on record, despite opportunities granted by this Tribunal to the parties in this regard, on record.

24. It is further seen from the record that during the course of proceedings the appellant has filed a bald affidavit, on record, to the effect that there are no service rules applicable to the appellant providing for an appeal under the provisions of section 18 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 read with rule 11 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013 whereas no reply/affidavit in controversion to the said affidavit of the appellant in this regard has been filed on the part of the respondent nos. 1 and 2 despite opportunities.

25. In view of the above provisions of law and preliminary objections raised on the part of the respondent nos.1 and 2 as to the maintainability of the instant appeal in this Tribunal, as aforesaid, along with the material on record, arguments on the point of maintainability of the instant appeal have been heard.

26. It is seen from the record that admittedly no service rules have been filed on the part of the parties, on record, governing terms and conditions of service of the appellant with respondent no.2 as stipulated under the provisions of section 18 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. It is further seen from the record that though an objection has been taken on the part of the respondent no.1/complainant that the instant forum is not available to the appellant for the ventilation and adjudication of his grievances against the impugned enquiry report as contemplated vide the provisions of section 13 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, under the provisions of section 18 of the same providing for institution of an appeal against the same on the part of the appellant/aggrieved person, by virtue of the appellant being not a workman and respondent no.2/IIHMR being not an industry and thereby the provisions of Rule 11 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013 being not available to the appellant for approaching the instant tribunal by way of the present appeal for redressal of his grievances under the provisions of section 18 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 as alleged and relied upon by the appellant in this regard vide notification no. F.6(3)/S.O.97□ Lab/122 dated 06.08.04 of the competent authority in this regard, however, it is seen from the record that no service rules governing terms and conditions of service/employment of appellant with the respondent no.2/IIHMR have been filed on the part of the respondents, on record, in reply/controversion to the assertion of the appellant vide his short/bald affidavit filed in this regard, on record, to the effect that to the best of the knowledge of the appellant there are no service rules applicable to the appellant governing the institution of an appeal on the part of the appellant under the provisions of section 18 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 read with Rule 11 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013, in respect of his grievances under the said Act.

27. It is further seen from the record that objection as to the maintainability of the instant appeal against the impugned enquiry report of the Internal Complaints Committee of the respondent no.2 (internal page nos.1 to 14) filed alongwith it as Annexure A (external page nos.16 to 29) has been taken on the part of the respondent no.2/IIHMR on the ground that the same is not maintainable in its present form by virtue of the enquiry report of the Internal Complaints Committee of the respondent no.2. under the provisions of section 13 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 filed alongwith it, as abovesaid, not containing recommendations of the

Internal Complaints Committee of the respondent no.2 qua the appellant as stipulated vide clause (i) or clause (ii) of sub section (3) of section 13 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 applicable to the case of the appellant and only against which an appeal can be preferred on the part of the appellant/ aggrieved person under the provisions of section 18 (1) and (2) of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 read with Rule 11 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013 as specifically mentioned/provided therein, as above quoted, and accordingly, the instant appeal of the appellant against the same is not maintainable in law.

28. Admittedly enquiry report of the Internal Complaints Committee of the respondent no.2 as contemplated under the provisions of section 13 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (internal page nos.1 to 14) Annexure A to the instant appeal (master page nos.16 to 29), impugned herein does not contain any recommendations qua the appellant pursuant to its finding against him in the same, as quoted hereinabove, as stipulated vide clause

(i) or clause (ii) of sub section (3) of section 13 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 governing the same and only against which an appeal can be preferred on the part of the appellant/aggrieved person as provided vide provisions of sub sections (1) and (2) of section 18 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 read with rule 11 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013 governing the institution of such an appeal on the part of the appellant/aggrieved person, as abovesaid, under which provisions of law the instant appeal has purportedly been filed/preferred and even though Ld. Counsel for appellant has alleged non application of mind on the part of the Internal Complaints Committee of the respondent no.2 in this regard vide the instant appeal, on record, I find that the instant appeal of the appellant against the impugned enquiry report of the Internal Complaints Committee of the respondent no.2, Annexure A, (external page nos.16 to 29) to the appeal by virtue of the statutory provisions of clause (i) or clause (ii) of sub section (3) of section 13 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 governing the impugned enquiry report of the Internal Complaints Committee of the respondent no.2 qua the appellant alongwith the provisions of sub sections (1) and (2) of section 18 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 read with rule 11 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013 governing the institution of the instant appeal on the part of the appellant against the same, as abovesaid, is not maintainable in law in its present

form at this stage of the proceedings between the parties as mentioned in the same. Same is dismissed as such.

Announced in the open court  
on 09.12.2016

(CHANDRA GUPTA)  
Presiding Officer, Industrial Tribunal  
Karkardooma Courts, Delhi.