



*Amulya M. Bhat*  
*Associate*

## **SUPREME COURT ON HYPER-TECHNICALITIES IN POSH CASES**

### **A. Introduction**

The Supreme Court of India (“SC”), in the recent *Dilip Paul* case,<sup>1</sup> held that the courts should not be swayed by hyper-technicalities and insignificant discrepancies but must assess the impact of any procedural violation against the overall fairness of the inquiry and that allegations of sexual harassment at workplace or offences of such nature should be considered within the broader context of the case and should not be judged merely on the basis of procedural violation.

### **B. Brief Facts**

1. The appeal is filed by the Union of India (“UOI”) against the judgement of the Guwahati High Court (“HC”).
2. A lady Field Assistant filed a complaint of sexual harassment against the Local Head of the Service Selection Board Dilip Paul alleging that he used to tease her, make unofficial phone calls, make sexual remarks, *etc.* She lodged complaint with the Inspector-General and forwarded copies to several authorities in 2011. She filed a second complaint in 2012, with additional allegations against Paul.
3. Initial inquiry by the fact-finding Frontier Complaints Committee’s inquiry failed to prove the allegations. The Ministry of Home Affairs then formed the Central Complaints Committee (“CCC”) to investigate the matter. CCC found Paul guilty, who approached the Central Administrative Tribunal (“CAT”) and requested the termination of CCC’s inquiry. CAT, however, refused to opine on the matter as the proceedings in the CCC were still pending.
4. Paul approached the HC which ruled that the CCC had overstepped its authority as it should not have considered the allegations made in the second complaint. It also ruled that the CCC’s findings were based on conjectures and surmises, characterizing the case as one with “*no evidence.*” The UOI approached SC against order of the HC.

### **C. SC’s Judgment & Analysis**

The SC:

1. Observed, citing relevant provisions of service rules<sup>2</sup> in context with sexual harassment of working women and disciplinary proceedings, and the 2006 Standing Orders, that: “*It is well settled that when it comes to disciplinary proceedings, it is the inquiry authority and the disciplinary authority who could be said to be the fact-finding authority and the courts in exercise of their powers of judicial review should not sit in appeal and reappreciate the evidence or substitute its own findings.*”<sup>3</sup>

---

<sup>1</sup> *Union of India v. Dilip Paul*, 2023 SCC OnLine SC 1423. Judgment passed on November 6, 2023 and available [here](#).

<sup>2</sup> Central Civil Services (Conduct) Rules, 1964, Central Civil Services (Classification, Control and Appeal) Rules, 1965.

<sup>3</sup> Paragraph 41 of the Judgement.

2. Observed, citing the judgement of *Apparel Export Promotion Council*<sup>4</sup> that “the courts should not get swayed by insignificant discrepancies or hyper-technicalities. The allegations must be appreciated in the background of the entire case, and the courts must be very cautious before any sympathy or leniency is shown towards the delinquent.”<sup>5</sup>
3. Found, regarding the scope of inquiry into subsequent complaints for CCC constituted (based on first complaint), that the HC’s finding of the same being restricted to first complaint was erroneous and that there is no legal bar on the CCC to also look into the allegations levelled in the second complaint,<sup>6</sup> and held that mere violation of a rule mentioned above does not vitiate the entire proceedings.<sup>7</sup>
4. Held, regarding the ‘test of prejudice’ by citing the *S.K. Sharma* case,<sup>8</sup> that “the test of prejudice is to ascertain whether the violation of such procedure or process resulted in a prejudice being caused or a loss of fair hearing.”<sup>9</sup>
5. Held, citing the *ECIL* case,<sup>10</sup> that to determine if prejudice had been caused by a violation of a procedural rule or facet of natural justice, it must be shown that violation had some bearing either upon the outcome or the punishment imposed.
6. Observed that the HC had overlooked the principles established and had unreasonably set aside the CCC’s punishment order and that it had not applied the ‘test of prejudice,’ which should have been employed to assess the impact of the procedural violation on the Paul’s rights and the overall fairness of the inquiry.<sup>11</sup>
7. Further observed that the ‘principle of no evidence’ establishes that findings from a domestic inquiry are generally exempt from judicial review unless they are collateral or jurisdictional in nature. Here, it is not a case of ‘no evidence’ and the HC erred in declaring it one.
8. Allowed the appeal.

\*\*\*\*\*

This *Counselence Connect* contains information in a nutshell on a recent change in law. This is not legal advice and must not be treated so. For any clarifications, please contact us at: [info@counselence.com](mailto:info@counselence.com). Past issues of *Counselence Connect* are available at the ‘Newsletters’ page of our website ([www.counselence.com](http://www.counselence.com)).

---

<sup>4</sup> *Apparel Export Promotion Council v. A.K. Chopra*, (1999) 1 SCC 759.

<sup>5</sup> Paragraph 43 of the Judgement.

<sup>6</sup> Paragraph 52 of the Judgement.

<sup>7</sup> Paragraph 62 of the Judgement.

<sup>8</sup> *State Bank of Patiala and Others v. S.K. Sharma*, (1996) 3 SCC 364.

<sup>9</sup> Paragraph 57 of the Judgement.

<sup>10</sup> *Managing Director, ECIL, Hyderabad and Others v. B. Karunakar and Others*, (1993) 4 SCC 727.

<sup>11</sup> Paragraph 66 of the Judgement.