

IN THE COURT OF MS. GUNJAN GUPTA,
DISTRICT JUDGE-04, SOUTH-EAST,
SAKET COURTS, NEW DELHI

In the matter of
CS DJ No. 58/2017

SH. V. K. PANDEY,
S/o Late Sh. B.D. Pandey,
Inspector (Min)/ Head Clerk,
Village-Kaniya, PO-Ramnagar,
Distt. Nainital, UK.

Presently posted at BSF,
Administrative Directorate,
RR Cell, CGO Complex,
Lodhi Road,
New Delhi-110003.

.....Plaintiff

VERSUS

SMT. SHASHI AGARWAL, UDC
J-221/5, Ward No.4,
Mehrauli,
New Delhi-110030.

.....Defendant

SUIT FOR RECOVERY OF RS. 30,00,000/-

Date of institution of suit : 10.01.2017
Date of Judgment : 31.07.2025
Final Decision : Decreed

JUDGMENT

1. This is a suit for damages filed by plaintiff against the defendant claiming damages to the tune of Rs.30,00,000/- for loss of reputation.

2. Brief facts of the case, as set out in the plaint, are as under:

2.1). That the Plaintiff is posted as Inspector (Ministerial)/ Head Clerk in Resettlement and Rehabilitation Cell of Administrative Directorate, New Delhi and has been working with BSF for last 35 years.

2.2). He was an outstanding gunner of his Regiment and has also backed the first position in the Shooting Competition in 1982 held before the Union Home Minister at Pokhran Range. The Plaintiff has also participated in BSF Rising Day Parade for three consecutive years since 1983-1985 and has been awarded cash rewards by the DG, BSF.

2.3). During his service, the Plaintiff has also been promoted to higher ranks. Since, his joining, the ACR of the Plaintiff has been very good and outstanding and he has also been awarded cash rewards for his achievements. The Plaintiff has qualified all the QRs and is eligible for his next promotion to the rank of Assistant Commandant. The Plaintiff has also been appreciated for his professionalism and conduct by his superior officers.

2.4). The Defendant also works in BSF and is posted as Upper Division Clerk.

2.5). In Discharge of his duties, the Plaintiff used to instruct all the staff member to complete the assigned tasks in time and accordingly he directed the Defendant at various occasions to efficiently complete the assigned tasks in office as she had a lethargic approach towards work.

2.6). On 04.12.2014, a meeting was held under the Chairmanship of ADG(HR) to address the grievances of the disabled personnel. In this regard, Pers Dte (Estt. Sec) was requested to prepare the transfer/posting policy of disabled serving personnel. The Administrative Directorate (RR) was to issue instructions for constituting the Standing Committee for redressal of the grievances. The Administrative Directorate (RR) assigned this work to the UDC (RR) Cell headed by the Defendant to be completed within a stipulated time. However, Defendant failed to do so.

2.7). On 31.10.2015, the Pers Dte (Estt Sec) issued an office note no.22798 to the Administrative Directorate (RR) directing it to include various points in the terms of the said office note. On not receiving the assigned work in terms of the said office note from the RR Cell, a reminder was sent by Pers Dte (Estt Sec) on 02.01.2015 under office note no.436. The defendant despite the reminder failed to complete the task. The same was brought to the note of the Plaintiff and the Plaintiff further conveyed it to the Commandant (RR), who in turn, vide office note no. 13306 dated 30.11.2015 provided the requisite information for framing the policy to the Pers Dte (Estt Sec).

Further, a warning letter was issued to the Defendant by the DIG (RR) vide letter dated 13.01.2016 for improvising her work.

2.8). On one occasion, the defendant who was also appointed out of the welfare fund of BSF, deliberately and intentionally submitted a wrong report of her charter of duties for the purposes of assessment of increment and provided a list of 18 subjects, though, she was only dealing with 05 subjects on her charter of duty. The Plaintiff pointed out the inconsistency while compiling all the lists for the purposes of submitting the same to the Administrative Directorate (RR) and confronted the Defendant with the same, however, the Defendant developed a personal grudge against the Plaintiff.

2.9). The Plaintiff again found errors in the work of the Defendant when she was directed to prepare a list of the BSF Retired Personnel belonging to the State of Karnataka. It was revealed that there was a total of 2824 Retired personnel, whereas, the Defendant had compiled a list of only 1152 personnel. The Plaintiff again brought the mistake to the knowledge of the Defendant directing her to complete the task correctly.

2.10). The Plaintiff was also responsible for submitting the attendance register of the RR Cell daily at 09:45am to the DIG (Adm.). The Defendant used to make requests to the Plaintiff to send the register after her arrival and at times requested the Plaintiff to mark her attendance in advance. However, the Plaintiff refused to honour her wrongful demands.

2.11). The Defendant was careless in her work and irregular in her timings. She also used to leave the office during working hours without permission.

2.12). The Defendant used to also indulge in sycophancy. The Plaintiff reported the inefficiency of the Defendant to the higher authorities. Due to the above, the defendant developed a personal grudge against the plaintiff.

2.13). Taking note of the inefficiency and the careless approach of the Defendant towards work despite warnings, the Defendant was transferred from the RR Cell and was handed over an order in this regard on 19.01.2016.

2.14). After receiving the order of transfer, the Defendant threatened the Plaintiff to teach a lesson. At 12:00pm on 19.01.2016, the Defendant levelled false allegations of sexual harassment against the Plaintiff due to malice developed in her against the Plaintiff. She filed written complaints on 19.01.2016, 03.02.2016 and 04.02.2016 concocting a story against the Plaintiff and improvising the story in each complaint.

2.15). In the complaint dated 19.01.2016, the Defendant did not mention any dates of the alleged incident and it was merely alleged that the Plaintiff had tried to catch her when he visited her office. In the subsequent complaints, the Plaintiff improvised her story.

2.16). The allegations levelled by the Defendant in the three complaints were baseless, false, malafide, unsubstantiated, motivated, libelous and solely made with the intention to damage

the reputation of the Plaintiff. The false allegations levelled by the Defendant resulted in lowering the reputation of the Plaintiff amongst his colleagues and society which also disrupted his family life. The allegations levelled by the Defendant affected the reputation of the Plaintiff and his standing in the Force, though, the Plaintiff had an absolute clean service record for over 35 years.

2.17). On the allegations levelled by the Defendant, an inquiry was conducted by the Commandant (RR) and a detailed report was submitted to the IG (Adm) holding that the allegations against the Plaintiff were prima-facie false, frivolous and with a malafide intention to cause harassment to the Plaintiff for being strict to her on bonafide professional issues.

2.18). The inquiry report exonerated the Plaintiff holding that he was not present in his office at the time of the alleged incident. The final report also pointed out the contradiction in the complaints of the Defendant.

2.19). During the period of Inquiry, the Plaintiff faced mental harassment and a blot of a probable sexual offender in front of the people who once looked upto him and had to face an inquiry for an incident which he did not commit. Due to the same, the Plaintiff had to live under the constant threat of loosing his job and reputation in society.

2.20). The Defendant is habitual of resorting to these methods to escape her inefficiency. The Defendant had made false allegations against DC (RR) about reporting the matter to

him by the Plaintiff. The Defendant in her complaint of 03.02.2016, also levelled allegations against the Commandant (RR) and DIG (RR).

2.21). In the complaint dated 04.02.2016, the Defendant also commented on the behaviour of the IG (Adm.), which shows that the Defendant can go to any length to justify her inefficiency. Hence, the Plaintiff has filed the present suit for recovery of damages of Rs.30,00,000/- for loss of his reputation

3. CASE OF DEFENDANT

Written Statement was not filed on behalf of the defendant despite opportunities being given. Therefore, right of defendant to file Written Statement was closed by Ld. Predecessor of this Court vide order dated 03.01.2018.

4. PLAINTIFF'S EVIDENCE

Plaintiff in support of his case examined himself as **PW-1**. He tendered his evidence by way of affidavit **EX.PW1/A** and relied upon the following documents :-

1. *Photocopy of identity card issued by BSF, CGO Complex, New Delhi* – **Mark PW-A/1**
2. *Photocopy of letter dated 13.01.2016 addressed to Ms. Shashi Agarwal* – **Mark Ex.PW-1/1**
3. *Photocopy of complaint dated 19.01.2016 to the Inspector General, Admn, FHQ, BSF, New Delhi* – **Mark Ex.PW-1/2**
4. *Photocopy of complaint dated 03.02.2016 to the Inspector General, Admn, BSF, CGO Complex, New Delhi-*
Mark Ex.PW-1/2

5. *Photocopy of complaint dated 04.02.2016 to the Director General, BSF, CGO Complex, New Delhi-* **Mark Ex.PW-1/4**

6. *Photocopy of remarks of the Inspector General, (PERS) on Inquiry report dated 25.10.2016-* **Mark Ex.PW-1/5**

PW1 was cross-examined by Ld. Counsel for defendant.

5. Plaintiff also examined one Sh. Sunil Kumar, Constable from the Office of Headquarters, Directorate Central Border Security Force, as **PW2**. He exhibited the inquiry record of the complaint regarding sexual harassment submitted by Smt. Shashi Agarwal with RR Cell, Adm. Dte, HQ DG, BSF dated 25.10.2016 as **EX.PW2/A**. PW2 was cross-examined by Ld. Counsel for defendant.

6. **Arguments of Ld. Counsel for plaintiff.**

6.1) Ld. Counsel for plaintiff has argued that the plaintiff has been exonerated from the false allegations of the defendant in the report of IG (Pers) HQs DG, BSF dated 25.10.2016 **EX.PW2/A**. It is submitted that it has been clearly mentioned in the said report that the allegations of the defendant could not be proved in the absence of substantiating evidence and the contradictions are found in her application/complaint regarding the incident of sexual harassment.

6.2) It is submitted that in the inquiry proceedings, it has also come on record that the defendant was habitual of resorting to these methods to escape her inefficiency. It is argued that even in the inquiry report conducted by Commandant (RR) to the IG (Adm), the allegations of the defendant against the plaintiff were found frivolous and with a malafide intention of causing

harassment to the plaintiff for being strict to her on bonafide official/professional issues.

6.3) It is submitted that even the Writ Petition filed by the defendant before the Hon'ble High Court of Delhi for calling the records of the inquiry proceedings, was dismissed for non-prosecution vide order dt 03.12.2019.

6.4) It is submitted that from the above, it is clear that the defendant had made frivolous and false complaint against the plaintiff to take revenge for his acts on professional issues and the inefficiency of the defendant in her work. It is submitted that due to the false allegation of sexual harassment, the plaintiff's reputation has been damaged and lowered in the eyes of his colleagues and family.

6.5) It is argued that the plaintiff has claimed the amount of compensation on the basis of his position, reputation and standing in the society. It was argued that the amount of damages has to be assessed taking into consideration the conduct of the plaintiff, his position and standing, nature of libel and absence of apology from the defendant. It is argued that the plaintiff had a clean and progressive career of more than 35 years and the plaintiff had been promoted on higher positions many times and was even conferred awards for his good work. However, due to the false allegations of the defendant, his reputation and self esteem has been lowered in the eyes of the right thinking people in the society and accordingly the plaintiff has sought compensation of Rs. 30 lacs for the harm caused to him by the malafide acts of the

defendant.

6.6) In support of his case, the Ld. Counsel for plaintiff has relied upon the judgment in **Manmohan Krishna Vs. State of UP and Another, 2024 SCC OnLine All 43.**

7. No arguments were advanced and no written submissions were filed by the defendant despite several opportunities being given.

8. I have heard the arguments advanced by Ld. Counsel for the plaintiff and have gone through the record including the judgment cited by him.

9. **Reasons for decision.**

9.1) The defendant has failed to file her Written Statement in the present suit and, therefore, the averments of the plaint are deemed to be admitted. The plaintiff has supported his case in his evidence and his testimony has remained unshaken in the cross-examination conducted by the defendant. The defendant has not cross-examined the plaintiff as to his testimony regarding the inefficiency of the defendant in her work and the departmental actions taken against her for the same. Further the transfer orders of defendant as well as the reasons for the same are not disputed and no question is put qua the same. The entire cross-examination is silent as to the alleged incident of sexual harassment. There is not even a whisper in the cross-examination that the allegations leveled against the plaintiff by the defendant were true. Even the documents relied upon by the plaintiff have not been disputed by the defendant, nor any

cross-examination has been conducted with respect to those documents.

9.2) The witness PW2- Sh. Sunil Kumar, Constable from the Office of Headquarters, Directorate Central Border Security Force, has proved the inquiry record of the complaint regarding sexual harassment submitted by defendant with RR Cell, Adm. Dte, HQ DG, BSF dated 25.10.2016 as EX.PW2/A. The defendant has not challenged the said record Ex.PW2/A. There is nothing on record to show that any appeal / proceeding was filed by the defendant against the findings of the internal complaints committee.

9.3) In the remarks of the IG (Adm) dt 05.02.2016 on the complaint lodged by defendant, the IG (Adm) has accepted the report of the Commandant (RR) Sh. R.K. Dua who is stated to have conducted discreet inquiry on the complaint. It has been mentioned that the Office of Sh. N.S. Dhaka, DC (RR) and the other Staff of RR Cell including 3 female staff and the Office of DC (RR), Head Clerk are located in a hall with partition of plastic planks and gaps in the walls where no sound of such nature can go unnoticed.

9.4) It has further been observed that the entire staff had praised the conduct of the plaintiff and on the contrary condemned the behaviour of defendant. The Civilian female staff working with the defendant had stated that the defendant has a tendency to level false allegations and she did so on many occasions in the past as well whenever she was pulled up for

her official work.

9.5) A perusal of the remarks of the IG (Pers) dated 25.10.2016 Ex.PW2/A shows that the IG (Pers) agreed with the findings of Internal Complaints Committee on sexual harassment. It is stated that in the inquiry proceedings, no substantiating evidence has been led in support of the complaint and the allegations have not been proved. It has also been observed in the said remarks that despite the presence of Officers and Staff, including female staff in the Office Complex of RR Cell on the date of alleged incident dt 01.01.2016, the defendant did not report the matter to anyone and the complaint was filed after a delay of 19 days i.e. on 19.01.2016. It has further been observed that from the statement of the witness examined by the Committee, it has been found that the plaintiff was not present in the office at the time of incident, mentioned by the defendant, in her statement. The committee found that there were number of contradictions in the applications /complaints submitted by the defendant to report the alleged incident of sexual harassment.

9.6) From the above, it is clear that the defendant's performance in office was not up to the mark and she was pulled up time and again for her inefficiency in work and her careless attitude and she was even transferred for the same. As already discussed above, the defendant has not challenged any of the findings of the internal complaints committee and the remarks of IG (Adm) and IG (Pers) and the same attained

finality.

9.7) Thus it is clear that the defendant had filed false and frivolous complaint against the plaintiff alleging sexual harassment, just to wreak personal vengeance as the plaintiff had reported deficiencies in her work to the concerned authorities, for which even the action was taken against her. The defendant has not disputed that the plaintiff had an unblemished and progressive record of 35 years of service. Thus it is clear that the complaints Ex.PW1/2 to Ex.PW1/4 with the allegations of sexual harassment, were false and concocted and thus were definitely defamatory and had tarnished the image and reputation of the plaintiff amongst his colleagues, family and the society. The plaintiff has also been made to suffer the inquiry proceedings on a false complaint.

9.8) It has been stated in the cross-examination of the plaintiff that during the said period of inquiry proceedings, his colleagues started avoiding him and he had to face various questions, making difficult for him to survive in his office. It was stated that he was even questioned by his wife and son.

9.9) It cannot be ignored that when a complaint of sexual harassment is filed against an official and inquiry proceedings commence and other officials of the same office are examined as witnesses, definitely the incident becomes a matter of discussion and even unwarranted comments and opinions of colleagues. The same may even in some cases disrupt the family life of a person and the same has been clearly

alleged and testified in the present case.

9.10) Though sexual harassment of woman at work place is a serious offence, however, a false allegation of sexual harassment against an innocent person, cannot be weighed any less. It violates the Fundamental Rights of a person to live with dignity. It has tendency to affect his professional as well as personal life as the allegations spreads like wild fire in the society and people may even question the person accused of allegations and may form adverse opinions as to his character. Such circumstances make it difficult for a person to exist peacefully in such environment and forces him to lead a life with a sense of shame, lowering his self esteem and thus false complaints of such a nature filed by the Officials of Govt. Department have to be dealt with an iron hand to ensure that a strong message percolates in the society and deters such people from making false allegations against an innocent individual else the superior officers will not be able to do anything out of a fear of being prosecuted and will become mute spectators to the acts of non-performing officers under their control.

9.11) In the present case the plaintiff and defendant were the public officials and acts of the defendant were motivated to deter the plaintiff from asking the defendant to perform her public duties properly and to wreak personal vengeance against the plaintiff. The allegations leveled by defendant in her complaints were serious allegations and excerpt of the said complaints filed by the defendant is

reproduced hereunder:

Complaint dated 19.01.2016:

"..... When I came in the office of VK Pandey for discussion/clarification on a file, he caught hold to me. I protest it strongly and ran towards from his room. After a week I came to his office for some clarification, again he try to catch me and I ran from his office and report it to Shri N S Dhaka, DC (RR) in detail....."

The second complaint dated 03.02.2016

"1. Inspector/Head Clerk Mr. V K Pandey has touched here and there unpleasantly in his room from time to time in many occasions....."

2. On 1st January 2016, when I was in his room for some official work, he tried to catch me from back side and tried to get his hands in blouse....."

The third complaint dated 04.02.2016

"....."

5. That one day i.e. on 01.01.2016 he called me in his cabin on the pretext of some file and started touching me on my hand as well as my chest inappropriately. Not only this, he tried to catch me from the back side and tried to get his hands in blouse....."

9.12) The plaintiff has claimed damages to the tune of Rs. 30 lacs for loss of reputation. It was also argued that the potential loss of salary and pensionary benefits should also be considered.

9.13) In the considered opinion of this court an apprehended loss which never actually happened cannot be the basis of assessing the compensation for loss of reputation of an individual and the amount claimed by the plaintiff is on the

higher side. However, considering the mental harassment suffered by the plaintiff due to false allegations of sexual harassment leveled by defendant, the severity of allegations leveled, the position which the plaintiff held in the BSF, Adm. Directorate, Delhi, his clean and unblemished and progressive career record of more than 35 years and his standing and reputation that he enjoyed in the society which is apparent from the remarks of the IG (Adm) in his report dt 05.02.2016 and considering the position occupied by the defendant in the BSF Office, damages to the tune of Rs. 10 lacs are considered appropriate and awarded in favour of the plaintiff against the defendant.

9.14) **The suit of the plaintiff is accordingly decreed for a sum of Rs. 10 lacs in favour of the plaintiff and against the defendant. Costs of the suit is also awarded in favour of the plaintiff.**

9.15) Decree sheet be prepared accordingly. File be consigned to Record Room.

**Announced in the open Court
on 31.07.2025**

**(GUNJAN GUPTA)
District Judge-04,
South-East, Saket Court,
New Delhi**