



FEDERAL OMBUDSMAN
For Protection against Harassment of Women at Workplace
Islamabad

ORDER

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| 1. | Appeal Number: | 9/FOS/2011 |
| 2. | Date of Institution: | 10-5-2011 |
| 3. | Date of Decision: | 5-10-2011 |
| 4. | Appellant: | Amir Mahmood |
| 5. | Respondents: | i. Managing Director, PIA
ii. Ms. Shamim Bano |

Musarrat Hilali,

Ombudsman:

This matter arises out of an appeal No. 9/FOS/2011

1. Briefly the facts are, that Ms. Shamim Bano, *Accounts Officer Finance Department Pakistan International Airlines* submitted a complaint against Mr. Amer Mehmood, *Senior Accounts Officer Pakistan International Airlines, Jinnah International Airport Karachi* before Women Protection Committee. It was alleged that Mr. Amer Mehmood *P-48051, Senior Accounts Officer* misbehaved with the complainant on her workplace in front of other employees by saying “Jahil” and “Badtameez Aurat”. Upon receipt of complaint, the competent authority constituted a committee comprising of Ms. Mahreen Fatima, Mrs. Mariam Aftab and Mr. Abid. The committee communicated to the appellant the charges leveled against him by Ms. Sahmim Bano, the complainant. The appellant submitted his reply on 08-03-2011 denying all the charges leveled against him and opted to defend himself before the enquiry committee.
2. The appellant (accused) and the complainant appeared before the committee, statements of Ms. Shamim Bano, complainant, and Mr. Amer Mehmood were recorded, the enquiry committee also recorded the statements of 12 witnesses. The complainant, defendant and all the witnesses were put to the clarification of

enquiry committee. The enquiry committee gave its detailed report on 18-03-2011. On the recommendation of enquiry committee, the Managing Director PIA being the competent authority issued letter of censure to the appellant and permanently transferred him to Finance unit (Engineering).

3. Aggrieved of the recommendation of the Women Protection Committee dated 18-03-2011 and order of the competent authority dated 31-03-2011, the appellant filed the instant appeal under section 6 sub section (I) of the Protection Against Harassment of Women at Workplace Act 2010.
4. Learned counsel for appellant submitted that the impugned order of competent authority is without Jurisdiction as according to the learned counsel matter was beyond the purview and scope of the Act. That the alleged words “Jahil” and “Badtameez Aurat” were used which do not cover the word harassment as defined under section 2 sub section (h) of the Protection Against Harassment of Women at Workplace Act 2010.
5. Learned counsel further submitted that Women Protection Committee and the competent authority acted in a biased and perverse manner, resulted into miscarriage of Justice, he prayed that the recommendation of Women Protection Committee dated 18-03-2011 and the order of competent authority dated 31-03-2011 be set aside.

On the other hand, Mr. Agha Sayyad Ali Raza appearing on behalf of Women Protection Committee submitted that the findings / recommendation of Women Protection Committee be treated as his arguments.

6. I have gone through the statements of appellant, the complainant and the witnesses and have perused the record. The foremost and pivotal question for adjudication is “whether the subject complaint constituted a case under Section 2 Sub Section (h) of the Act which is reproduced as under:

“harassment” means any unwelcome sexual advance, request for sexual favors or other verbal or written communication or physical conduct of a sexual nature or sexually demeaning attitudes, causing interference with work performance or creating an intimidating, hostile or offensive work environment, or the attempt to punish the complainant for refusal to comply to such a request or is made a condition for employment”.

7. From the plain reading of the above mentioned section it is clear that a key part of the definition is the use of the word unwelcome or uninvited conduct or communication of a sexual nature is prohibited. The sex based behavior shall be severe or persuasive enough to alter the conditions of the victims employment and create an abusive working environment or renders the work place

atmosphere intimidating, hostile or offensive. The complainant has alleged that appellant called her “Jahil and Badtameez Aurat”. None of the words uttered by appellant qualifies the term sexual harassment. Although the comments were sufficiently offensive to cause discomfort for a women but they did not rise to the level of interfering with the complainant’s work performance as it was an isolated incident, occurred on a very minor dispute. Had there been a man in her place, situation would have been equally bad for him. The complainant failed to make a prima-facie case of sexual harassment.

8. In view of the foregoing this appeal is allowed.

The above are the reason for the short order dated 05-10-2011 which is reproduced as under:

“For the reason to the recorded in my detailed judgment, this appeal is allowed. The order of the competent authority dated 31-03-2011 is se-aside. The Managing Director PIA is directed to submit the compliance report to the office of undersigned within 03 days of the receipt of this order”.

The Managing Director *PIA* is further directed to send back the appellant to the position from where he was transferred pursuant to the order dated 31-03-2011.

A copy of this judgment be sent to Managing Director *PIA, Karachi* for its implementation.

Case file be consigned to the record room after its necessary completion and compilation.

Announced

MUSARRAT HILALI
Ombudsman

Certificate

Certified that this decision consists of 05-pages each page has been signed and verified by me after completion and compilation.