



FEDERAL OMBUDSMAN

**For Protection against Harassment of Women at Workplace
Islamabad**

J U D G M E N T

1. Appeal Number: 1(1)/2011-FOS
2. Date of Institution: 27-1-2011
3. Date of Decision: 26-09-2011
4. Appellant: Ansar Fatima
5. Accused: Asad Hameed, Sataion
Manager PIA, Islamabad.

Musarrat Hilali

Ombudsman:

1. The matter arises of an appeal No. 1(1) of 2011, filed by Ansar Fatima.
2. Briefly the facts are that appellant is serving as *passenger services* officer grade 05 in Pakistan International Airlines (PIA) at Islamabad. That on 08-10-2010 she submitted a complaint to the enquiry committee of PIA against respondent No.1, Mr. Asad Hameed, *Station Manager* PIA, Islamabad, stating therein that she had been serving in PIA for the last 20 years, that *Station Manager* PIA Asad Hameed invited her in his office and instigated her to develop friendship with him. She stated that respondent No.1 very often invited her to dinner which she bluntly refused, that on 23-9-2010 respondent No.1 Asad Hameed called the appellant in his office and tried to hold her scarf and hand and also uttered a few embarrassing innuendos and in the end threatened her that he would make things difficult for her in the office.
3. The appellant stated in her complaint that respondent No.1 is habitual of harassing female employees but none have reported the matter as they were afraid of adverse and coercive action by the respondent No.1, that the enquiry committee did not inform

the appellant of its findings as according to the appellant the members of the enquiry committee were biased, that on 20-12-2010 the appellant wrote a letter to the enquiry committee and requested them for communicating the findings of enquiry committee, that in a short letter it was communicated that the complaint was dismissed being not proved.

4. Aggrieved by the decision of competent authority dated 25-11-2010, the appellant has filed the instant appeal under section 6 Sub (2) of the Protection against Harassment of Women at Workplace Act 2010.
5. Both the parties appeared alongwith their counsels. Learned counsel for the appellant argued that the enquiry committee has failed to appreciate circumstantial as well as ocular evidence available on record, that the impugned decision of the competent authority dated 25-11-2010 is not a speaking decision and lacks reasons, that the outcome of enquiry committee is gross misreading and non-reading of the evidence available on record, learned counsel requested for setting aside the findings of the enquiry committee dated 23-11-2010 and decision of the competent authority dated 25-11-2010 and prayed that accused respondent No.1 be dismissed of his job for harassing the appellant on workplace.
6. On the other hand learned counsel for respondent No.1 while rebutting the arguments of learned counsel for appellant submitted

that respondent No.1 has falsely and maliciously been implicated in this case, that the enquiry committee while rejecting the complaint of the appellant have accepted the version of respondent, that all the 14 witnesses produced by appellant have not spoken a single word in support of the appellant, that the dispute arose over the transfer of appellant from Shalimar Lounge to General Lounge. Learned counsel submitted that the appeal be dismissed being without substance.

7. I have gone through the statements of appellant, respondent No.1, members of enquiry committee and statements of the witnesses and have perused the record. The arguments of the learned counsel for respondent No.1 that the respondent No. 1 has falsely and maliciously been implicated in this case is not based upon legal hypothesis. It is held that plea of malafide must be pleaded with particularity. The learned counsel when asked, failed to point out any malafide on the part of appellant to have falsely implicated respondent No.1 in this case. The arguments raised by the learned counsel that the appellant produced 14 witnesses but none spoke in favour of appellant does not hold ground as according to the record the witnesses examined by the enquiry committee were not produced by the appellant before the enquiry committee, rather the enquiry committee chose to examine the aforementioned witnesses on their own.

8. The enquiry committee rejected the complaint on the ground that there was no eye witness to the occurrence, it is observed that the sole statement of appellant would be sufficient for conviction if the same is confidence inspiring, it may further be noted that no responsible lady would shred mud on her honour and that too in the absence of any malice on the part of the appellant who is working in group 05 as against a senior officer of group 08. The appellant could not produce any witness regarding the ocular account as the nature of offence is such that no one would commit such offence in the presence of eye witnesses more over such type of offence is committed in private.
9. The enquiry committee was required to consider the character and conduct and question of any malice on the part of any party. It may be noted that Mrs. Maheen Fatima member enquiry committee while giving her report admitted that the character of appellant was blotless and her performance exceptionally well as declared by all the bosses, colleagues and subordinates of appellant without exception whereas according to her the character of respondent No.1 was doubtful. Mrs. Maheen concluded her report with the following remarks:

“Without doubt the incident of Shalimar Lounge dated 23-9-2010 has taken place and Mr. Asad is guilty, how

ever no firm and tangible proof could surfaced during enquiry despite probing”.

10. Mrs. Mariam Aftab member enquiry committee also praised the character of appellant by stating in her report that complainant (appellant) had an exemplary moral fiber and was outstanding in her professional duties. Once the members of the committee were convinced that the occurrence has taken place than they were not justified to exonerate the appellant only on the ground that there was not eye witness account of the occurrence.
11. The committee on the recommendation of Mr. Abid Saleem, member enquiry committee, administered oath to respondent No.1. Under the oath Act 1872 if one party offers for the oath and the other party accepts the offer, in that case the oath can be considered, in the absence of any offer from the appellant the oath taken by the respondent No.1 has no legal value. Such matters shall not be decided on oath. Respondent No.1 dealt with the appellant in rude and hostile manner and changed her job duties. The repeated transfers of appellant from one office to another in a span of few months by the order of respondent No.1 further

12. In view of the forgoing, Asad Hameed respondent No.1 is found guilty of harassing Ansar Fatima through verbal communication of sexual nature and sexually demeaning attitude and making a hostile and offensive work environment for the appellant.
13. Above are the reasons for the short order dated 26-9-2011 which is reproduced as under:
- “Parties present alongwith their counsels. Arguments heard. For the reasons to be recorded in my detailed judgment, her complaint is allowed. The decision of the competent authority in this complaint is set aside. While holding him guilty the accused respondent is sentenced under Section 4 Sub Section 4. A fine of Rs. 100,000/- is imposed upon the accused, of which 50% shall be paid to the complainant (appellant) as compensation and the remaining 50% shall be deposited in the Federal Treasury within 7 days of this order, and the receipt thereof shall be deposited in this office.”
14. A copy of this judgment be sent to the Managing Director PIA for its implementation.
- Case file be consigned to record room after its necessary

completion and compilation.

Announced

(Musarrat Hilali)
Ombudsman

Certificate:

Certified that this Judgment consists of 07-pages. Each page has been signed and verified by me after necessary completion and compilation.

(Musarrat Hilali)
Ombudsman