



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

**J U D G M E N T**

1. Complaint Number: 1(236) / 2016-FOS (Reg)
2. Date of Institution: 07.01.2016
3. Remand Order 17-08-2016
3. Date of Decision: 27.02.2017
4. Complainant: Mst. Aliya Rehman  
D/o Abdul Rehman  
House No. 12, Street No. 2  
New Basti Lala Rukh  
Wahcantt
5. Opponents:
  - i. Managing Director,  
Overseas Employment Corporation  
M/o. Overseas Pakistanis and Human  
Resource Development,  
PMI-Auditorium Building, Zero Point,  
Islamabad
  - ii. Mr. Jamshed Ahmed, GM (Admn)  
Overseas Employment Corporation  
M/o. Overseas Pakistanis and Human  
Resource Development,  
PMI-Auditorium Building,  
Zero Point, Islamabad
  - iii. M. Raza Khan, Manager Admin,  
Overseas Employment Corporation  
M/o. Overseas Pakistanis and Human  
Resource Development,  
PMI-Auditorium Building, Zero Point,  
Islamabad

**Justice (R) Yasmin Abbasey,**

**Federal Ombudsman:**

**Complaint No. 1(236)/ 2016-FOS.**

1. Present complaint was filed by complainant on 07-01-2016 with certain facts which I do not want to reproduce in detail as same are part of my previous order dated 12-04-2016, however in brief, case of complainant is that her immediate boss General Manager Administration Jamshed Ahmad is cause of constant harassment to her. It is alleged that he used to ask personal questions from complainant which are not acceptable to her. She tried to resolve the issue, but his continuous questioning about personal affairs forced her to move application to Managing Director on 02-07-2015. Second application was moved by her on very next date i.e. 03-07-2015 to General Secretary of Union and finally she approached to Secretary Ministry of Overseas Employment Corporation (OEC) Pakistan vide application dated 10-08-2015. According to her in letter dated 10-08-2015 Secretary OP&HRD has desired that Managing Director OEC may hold inquiry into the issue and submit its report within seven days. With the use of word "Managing Director OEC may hold inquiry" complainant has taken it that it is for Managing Director to initiate inquiry at his own and none else. Anyhow on same day Managing Director had directed Manager to conduct inquiry and submit report.
2. A letter was issued from Muhammad Raza Khan Manager of OEC on 12-08-2015 to complainant to submit her statement along with evidence on charges leveled by her against opponent Jamshed Ahmad General Manager. In reply to this letter complainant has shown her reservation by letter dated 18-08-2015 that as Secretary has directed Managing Director to hold inquiry, therefore he is not competent and inquiry committee be constituted in the matter where she will produce evidence. In spite of this reservation of complainant again on 18-08-2015 another letter was issued by Manager Muhammad Raza Khan to complainant to produce her

statement, but his second request was again declined stating that as inquiry committee under direction of Secretary OB&HRD has not been constituted therefore she will not produce evidence to anyone except inquiry committee. She has further stated that if inquiry committee is not constituted within two days she will directly submit her evidence before Ministry.

3. Finally opponent Jamshed Ahmad as well as complainant Alya Rehman had submitted their reply and after going through their statement inquiry officer Muhammad Raza Khan reached to the conclusion that no such issue of sexual harassment as alleged by complainant had ever happened and complainant Mst. Alya Rehman was advice to concentrate on her official work more and improve her abilities.
4. Here it is also pertinent to note that after moving complaint by complainant in department, by order dated 12-08-2015 Managing Director had posted complainant in Public Relation section, removing her subordination from opponent. Another order was issued by section officer on 21-08-2015 with approval of Secretary OP & HRD that complainant be transfer to another section so that she does not work under present boss but it is also an admitted position that even after these orders of transfer complainant has not joined PR Section. In between that on 19-08-2015 it is stated by complainant that she had applied for ex-Pakistan leave.
5. On the other hand case of opponent is that complainant is always reluctant to do work neither she is punctual in her attendance, nor serious in her official work. Whenever she is forced to do work same nature of allegation of harassment is alleged by her. Before going through into further details of the merits of this case I want to clarify statement made by complainant before President Secretariat in her representation to President of Pakistan and referred in the decision dated 17-08-2016 that:

“She was not allowed to speak in the court. Whenever she tried to tell the illegal acts of the accused the Ombudsman ordered her to

keep silence. Being a virgin lady, she felt shy of its narration ad-verbatim. Thus she collected the happenings evidences and put those in an envelope. She repeatedly tried to give that envelope to the Ombudsman who refused to receive that envelop during the court proceedings”.

6. This statement of complainant is absolutely false and incorrect. Complainant in person as well as through her representative was fully heard by Federal Ombudsman in both trials. So far the question of giving close envelope is concerned I will like to refer Article 155 of Qanoon-e-Shahadat which provides that whenever document is placed on record the opposite party has a right to inspect the same and prepare himself / herself for cross examining or submitting reply to those evidence, therefore even if such envelope was tried to give to Federal Ombudsman the requirement of law cannot be overloaded because it is not only for the Federal Ombudsman to go through those documents, but the principle of natural justice requires that allegation level against opponent should be conveyed to him so that he can defend the same. The provisions of Code of Civil Procedure as well as Criminal Procedure further emphasize this legal aspect that state of allegations leveled by one party against another must be conveyed to him to reply / defend the same, therefore without providing copies of those documents said to have been tried to give to Federal Ombudsman, they cannot be placed on record nor can be considered in isolation.
7. Coming up to the merits of the case, in reply to the allegation of complainant of harassment against opponent Jamshed Ahmad, opponent have placed ample evidence to show that neither complainant is competent to do work whereon she has been appointed nor tried to improve her skill in spite of repeated reminders and directions to her. Whenever she is forced to improve her skill and to do work she come up with same nature of allegation of harassment against persons who forced her to do work and to be punctual in her duties. In support of his statement opponent has referred report of Manager Muhammad Akmal

Khan dated 20-02-2014 to Managing Director wherein he has complaint against complainant about her non serious attitude towards work given to her and has reported that in spite of warning given to her she is not serious with her official duties. Manager Muhammad Akmal Khan had proposed to Managing Director that Administration may kindly be directed to take serious strict notice against complainant. Because of this report of Manager Muhammad Akmal Computer cell, warning letter was issued to complainant on 21-02-2014, thereafter continuously explanations were called from her for not performing her official duties on 16-04-2014, 28-04-2014, 05-05-2014 and finally disciplinary action was initiated by letter dated 09-09-2015. This letter of 09-09-2015 further shows that complainant has also leveled allegations of harassment against Muhammad Akmal, Incharge OEC RO Quetta when she was forced to be serious in her work. This state of fact of moving harassment application against Muhammad Akmal Khan has also been admitted by complainant in her cross examination made on 21-11-2016. Beside these referred above, number of documents such are of 16-05-2013, 30-05-2013, 21-06-2013, 05-07-2013, 18-02-2014, 19-02-2014, 21-02-2014, 16-04-2014, 28-04-2014, 05-05-2014 and official correspondence report at Page 102 and 103 have been placed on record by opponent to show non serious attitude of complainant to perform her official work and non-punctuality in attending office. It is because of that charge sheet was issued to her on 09-09-2015, but letter dated 18-09-2015 produced as exhibit C/11 show that neither complainant appeared before inquiry committee nor has submitted her defense, therefore it was observed by members of inquiry committee that:

Since she is unable to reply the charge sheet within the fixed period. Therefore, it is assumed that she has nothing in her defence and the committee is of the view that the charges leveled upon her are justified. Therefore, the matter is being referred to you for your recommendations for final decision of competent authority.

8. To show further conduct of complainant, official correspondence of OEC

with reference to "leave grant without pay" has been placed on record at Page-105, wherein at Para 24 it is observed that as complainant was appointed in corporation for period of 6 months in September, 2011 following her service regularized in February, 2012. Lacking basic pre-requisite period i.e. 5 years as per rules produced in Para-22-A she is not entitled for EOL (without pay). Whereas a letter dated 08-09-2015 has been placed by complainant intimating about grant of her leave under signature of Manager Muhamamd Raza Khan. According to opponents representative these documents at Page 117 and 118 of 27-08-2015 and 08-09-2015 are forged one in the light of decision taken at Page-106 of file and leave rules referred. To support his contention he has referred letter pad whereon this grant of leave on 08-09-2015 is said to have been issued. According to him on 07-06-2013 Ministry of Human Resource was merged with Ministry of Overseas and this fact he has proved by showing another letter of 19-08-2015 which has been issued on letter pad of Ministry of Overseas Pakistanis and Human Resource Development. He has referred different letters from Page 36 to 41 which has been issued after merging of Human Resource with Ministry of Overseas Pakistanis and all these letter pads are issued with joint name of Ministry of Overseas Pakistanis and Human Resource Development. No satisfactory reply to this submission of opponent has been placed by complainant that if Ministry of Human Resource was merged with Ministry of Overseas Pakistanis on 07-06-2013, how this letter of 08-09-2015 was issued on previous letter pad of Ministry of Human Resource Development, which apparently creates doubt as to genuineness of this document of 08-09-2015 and it is because of that show cause notice was issued to her on 06-10-2015 on her departure to UAE without obtaining prior approval and NOC from department which has been reproduced as exhibit C/12. Beside different charges leveled on her, in addition to the ground that she proceeded to UAE without permission, Managing Director being competent authority has dismissed her from service on 13-10-2015.

Although complainant was subsequently re-instated in OEC service, but still her conduct remain the same. Therefore on 27-09-2016 it has been reported by Executive Director (Ops) to Managing Director which reads as under:

This is to inform you that after her re-instatement in OEC service, Ms. Alya Rehman was posted in P.R section of Operative's wing, but since her posting she has not attending her work place.

Despite my repeated counseling and knowing to the fact that she is under observation, she is not showing seriousness towards her duties. I am afraid that if I persistently ask her to work then she may repeat the same blame game, which she keep doing in the past and I am sorry I cannot afford such allegations in the last years of my service, therefore, I'll request you to post out her from operation wing.

9. In such state of facts which complainant has not been able to rebut, statement of complainant that she was harassed by opponent, without any detail of such acts of harassment cannot be taken as gospel truth. According to complainant as stated by her before President Secretariat that because of shy she could not submit detail of harassment committed by opponent without any specific allegation cannot be imagined. Serious nature of allegation of sexual harassment cannot be examined or judged mere on statement that opponent has harassed her. Burden of prove to prove harassment acts is and was on complainant, which neither have been placed by complainant in her first complaint moved to Managing Director on 02-07-2015 nor in second application moved to Secretary of Union of Overseas Employment Corporation on 03-07-2015 nor any detail are appearing in complaint moved by her to Ministry of Overseas Pakistanis. So also concise statement of complainant with reference to harassment acts of opponent is missing in her complaint moved before this forum on 07-01-2016 and in her statement filed before this forum on 15-02-2016. However after remand in her first statement moved on 16-09-2016 she has tried to make out case of sexual harassment by reproducing almost all words used in Section-2 clause h of Act of 2010. In Para 4 she

has further tried to improve her statement by adding new facts. In para 5 and 7 she has further added that opponent Jamshed Ahmed used to send messages to her that if she will accept her offer for ill relation of opponent No. 3 (i.e Raza Khan) he will handle all her service problems at cost of honor and dignity of complainant. This charge of complainant which has extended from opponent Jamshed Ahmad to opponent No. 3 Raza Khan does not find place in any of her previous statement which are part of record. Again in her another statement placed on record on 13-10-2016 with title of affidavit in evidence complainant in Para 4 again tried to improve her statement with another state of allegation that on 07-07-2015 at about 12:30 hrs when complainant was working in room of Jamshed Ahmad he amorously hugged her from back side tightly, she resisted and get rid of accused and left his room immediately. She was crying at that moment. It is further stated by her that when she came out from her room in corridor Mr. Muhammad Fahad Khan General Secretary of OEC Union who entered in corridor and questioned about her weeping, but without any reply she left office and made complaint to Managing Director OEC on next working day. According to complainant these were facts which she tried to submit in close envelop. As observed earlier that statement of any person cannot be examined in isolation. State of allegations made by one party needs examination by other party so that he may be in knowledge of allegations leveled on him / her and on which he / she is going to be charged so that he can defend himself.

10. In the circumstance of the case, these major contradictions in the statements of complainant at different levels with improvement are disbeliveable. Minor omissions can be ignored, but such serious nature of allegations as made cannot be lightly taken or can be admitted as gospel truth. It is also pertinent to note that Muhammad Fahad Khan who has been referred by her that he saw her coming out of room of opponent Jamshed Khan in state of weeping has not supported her neither in his statement made on 01-03-2016 nor in his statement made on 27-12-2016



stating that he had never seen any act of harassment happened with complainant nor he supported the contention of complainant that she saw her crying while coming out of room of opponent.

11. Muhammad Akmal Khan which has been produced by complainant herself in cross examination has stated that because of non-serious attitude of complainant he told to the management to take notice of her attitude so that in future he may not be questioned about her performance. He has further stated that he has written disciplinary remarks against complainant to management and it is thereafter in March 2014 Managing Director OEC informed him that complainant has alleged allegation of harassment against him.
12. Shahrukh Nusrat who has also been called by complainant as her witness has also stated that complainant was reluctant to do work, she misbehaved with other office bearers. She used foul language. So far as step taken on complainant's application moved on 02-07-2015 it is admitted by him that he has not conducted proper inquiry on that complaint, but formal inquiry was conducted by him and during inquiry he do not find any serious issue.
13. In light of above discussion I am of the view that there was no issue of harassment by opponent towards complainant. Improvements made by complainant after remand of case at different stages cannot be believed as true rather highly adversely reflects on veracity of complainant. What has been gathered from record is that because of poor performance of complainant, which beside document referred above and also appearing in documents placed at Page 61 to 70 of record whenever she was directed to do work she come up with allegation of harassment.
14. Therefore I am of the opinion that it is not case of harassment, but is of work performance of complainant. I also want to make it clear that my previous decision was never on ground that "as complaint has been filed

after complainant's termination from service, therefore this forum has no jurisdiction but was on merits. In my previous decision I was of the view that it is question of administrative issue of department and is service matter which cannot be examined before this forum. Again I am of the same view that it is not a case of harassment but of administrative issue of department and work performance of complainant.

15. Upshot of above discussion is that complaint is hereby dismissed having no merits.
16. Parties be informed accordingly.
17. Announced in open court.

**JUSTICE (R) YASMIN ABBASEY**  
**Federal Ombudsman**