

# OFFICE OF THE FEDERAL OMBUDSPERSON

## FOR PROTECTION AGAINST HARASSMENT OF WOMEN AT THE WORKPLACE, ISLAMABAD

FORM OF ORDER SHEET  
Complaint No. FOH-HQR/0000266/2023

**Date of Institution: 18-09-2023**

Serial No. of Order of Proceedings	Date of order of Proceedings	Order of other proceedings with Signature of Federal Ombudsperson			
		TITLE:	Arooj Malik	VS	Dr. Hafiz Ishaq & others
		DEPARTMENT: Federal Urdu University of Science and Technology, Islamabad			
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20	31-10-2024	<b>Subject: <u>Final Order</u></b>  1. The present case has been filed by the Complainant, Ms. Arooj Malik, Lecturer in the Department of Business Administration at the Federal Urdu University of Arts, Science & Technology, Islamabad (FUUAST) against the Accused, Dr. Hafiz Ishaq, who is presently serving as the Head of the Department of Business Administration at FUUAST.  2. The case of the Complainant is that she has been working at FUUAST since September 2006, performing her duties diligently, honestly and passionately. However, she has been made a victim of the Accused's sexual advances. The Complainant attempted to resolve the situation by refusing to submit to the illegitimate and immoral demands of the Accused but she was unable to approach any legal forum			

		<p>due to the social, familial and official taboos associated with doing so. According to her, the Accused had been physically harassing her since 2015 through different modes on numerous occasions while she was performing her official duties. He crossed all limits during the 2018 General Election at the Tumair Polling Station, where the Complainant was posted as a polling officer. The Accused touched her private parts, even in the presence of her minor daughter, Tehreem Fatima Khan. The Accused continued his illicit activities physically as well as verbally and even started calling her late at night and sending her texts on WhatsApp. The Complainant repeatedly warned the Accused to stop his sexual advances but he did not pay heed to her warning and instead increased his sexual advances by way of deliberately visiting her house pretending to have official business in front of her family, whereas in fact his intention was to sexually assault the Complainant several times. The Complainant finally mustered the courage to expose the Accused issuing him a warning in clear terms that she would file a proper complaint before the Inquiry Committee if he persisted with his behaviour. On this the Accused requested the Complainant to not lodge any such complaint and promised her that the harassment would cease. The Complainant on repeated requests of the Accused decided not to file any complaint but after some time he again resorted to his immoral activities i.e., calling her to his office during office hours on pretext of official work and trying to satisfy his lust through touching and other sexual acts. The Accused also started sending text messages to the Complainant e.g., <i>'itni dure se apki khidmat b nahi kee ja sakti'</i> and <i>'practical khidmat ki apni importance hai.'</i> That on account of the</p>
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		<p>frequent sexual advances by the Accused, the mental peace of the Complainant was shattered and she brought matters into the knowledge of her colleagues. She also applied for three months leave. Then on 13.01.2020 the Complainant filed a harassment complaint against the Accused before the Inquiry Committee at FUUAST. She later raised objections on the constitution and composition of the Committee vide application dated 11.02.2020 on 8 different grounds. Hearing on the complaint was held on 10.03.2020 but due to Covid-19 proceedings were not conducted. The Complainant was directed by the Committee to provide available evidence but as she was quarantined she could not do so. However, she was later shocked to learn that her complaint had been dismissed, ex-parte, and the same was notified to the Additional Registrar in September, 2020. The Complainant wrote two separate mails to the in-charge of the campus and the Vice Chancellor requesting for reconstitution of the Committee but to no avail. As per the Complainant, her legitimate grievances against the Accused were never properly addressed and she faced continuous humiliation, embarrassment and threats of losing her job. After the dismissal of her complaint by the Inquiry Committee she filed an appeal before this Forum in terms of Section 6 of the Protection against Harassment of Women at the Workplace Act, 2010 (Act). The said appeal was accepted by FOSPAH on 04.05.2023 and the case was remanded back to the organization for de-novo inquiry, with the option given to the Complainant to approach this Forum directly under Section 8 of the Act if she harboured mistrust against the Committee. The decision was challenged by the Accused before the Hon'ble President of Pakistan in representation but the same</p>
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was dismissed and the Inquiry Committee was given 30 days to conclude its proceedings. However, since the Complainant lacked trust in the Committee and the Committee failed to finalize the proceedings in the stipulated period, the Complainant invoked the jurisdiction of this Forum under Section 8 of the Act with the prayer that the Accused be awarded an exemplary punishment for spoiling her mental peace, sagacity and career that he be directed to compensate her for her mental agony, social trauma and mental, physical and social suffering.

3. After registration of the complaint the Accused was summoned. A preliminary objection with regard to the maintainability of the complaint was raised but this objection was declined vide order dated 26.10.2023. Accused then submitted a written defense wherein he denied the allegations of sexual harassment levelled by the Complainant against him. It is pertinent to mention here that in para 6 of his response (in the section titled 'reply on facts'), the Accused admitted that he was in contact with the Complainant via text messages (and stopped only in October, 2019). The case then proceeded further and the parties produced their evidence. The Complainant furnished her affidavit in evidence along with that of her daughter's. The Accused was given the opportunity to cross-examine her and her daughter but he deliberately failed to do so and consequently his right of cross-examination was closed on 14.02.2024. His representation against that order before the Hon'ble President of Pakistan was dismissed on 15.08.2024. Thereafter, the Accused was allowed to produce his evidence which he did so by recording his own statement as

DW-1 and the statement of Moeen Akbar, an employee in the Islamiat Department of FUUAST, as DW-2. Both were cross-examined by the Complainant. Finally, arguments of the learned counsel for the parties were heard.

4. An examination of the contents of the complaint reveals that the Complainant has lodged specific and clear charges of sexual harassment against the Accused, including physical touch and sexually charged text messages. In his cross-examination the Accused acknowledged that he had not denied ownership of the sim number, through which messages were sent to the Complainant, in his affidavit. He did, however, attempt to argue that the relationship between him and the Complainant was consensual. But the evidence on record (which has not been refuted by him) shows a completely different picture i.e., the Complainant repeatedly rebuffed the Accused's texts. Some examples are:

*"Bs karain sir. Aisi baatain na kia karen. AAP ko kae bar kaha hai.*

*Dear sir. Salam. You are very welcm to help me get printouts of table of contents. But. Your bad habbit of touching here n there has forced me to write you not to cm... This is harassment, You do understand the consequences of unwanted sexual interactions... Neither m i frustrated sexually nor am i looking for sm cher chala partner... Aik taraf Darood e pak ki tableegh. Doosri taraf physical zabardasti.*

*Aap ko itna ehssaas nae hota k meri bachi b sath hoti hay. This is cheapness. I dnt want to tolerate sexual touching n abuse any further.*

*I m so tired if telling n stopping you. Then you say k tehreem ko busy karain. Had hoti hay.*

*Aap ghalat keh rahay hain. Ammi k ghar b aap mera seena dbatay rahain hain. You have been*

*waiting k bachay aagay peechay ho to aao bad tameezi karain. Yahia ap nay kal raat kia tehreem ko kitchen bhej k...*

*Sir. I have tried many times to give u respect and every time u proved u don't deserve it. You will never stop touching me here and there. N pressing by bossoms. I have given you a shutup call many times to stop such advancements but all in vain...*

*You apologized last year. But aap ko aadat hay in harkaton ki. Aap ko itna lafaz b nahee ke meri beti b sath hy."*

It is pertinent to state here that in response to these messages of the Complainant the Accused apologized to her for his actions. In particular he stated:

*"I apologize for all previos things... again i apologize for all things.*

*Is sab kay upper mazrat ker chuka hun or ab bhee mazrat kaha hun.*

*Hazrat adam say bhee mistake ho gayee thee mera ap kay ilawa zindagee may kisi say koi relation nahee raha.*

*situation cannot be change Allah pak or Sarkar SAWW ap ka Hajj qabool farmay or Sarkar SAWW apko pak damna Khatoon banay aamen you will understand me during performing hajj Insha Allah may gynnaho ko admit kerta hun...*

*Aao I am apologizing last time I am really sorry for that ab jaisa hua jo marzi saza suna dejeaya ga."*

In the case reported as **Zaheer Ahmad Vs. Federal Ombudsman Secretariat for Protection against Harassment at Workplace, Islamabad** (2021 PLC(CS) 839) the Hon'ble Islamabad High Court has held that an apology is tantamount to an admission (para 7). Consequently, when the Accused has admitted his

behaviour, which is clearly reflected from the material on record, there can be no doubt that he has sexually harassed the Complainant in terms of Section 2(h)(i) of the Act which notes that '*any unwelcome sexual advance... or physical conduct of a sexual nature*' amounts to workplace harassment. Moreso, when he could not substantiate his contentions, made as a last ditch effort at the final arguments stage, that the messages have been taken out of context and that the complaint has been filed to prevent the commencement of a disciplinary inquiry against the Complainant. It is crucial to state that despite the passage of almost 20 hearings the Accused could neither produce a single piece of evidence showing that a disciplinary inquiry has been initiated against the Complainant by FUUAST nor could he bring forward his version of the text message conversation that took place between him and the Complainant. His assertions are therefore rejected.

5. As regards the stance of the Accused that this matter ought to have been heard by the departmental Inquiry Committee, the order of this Forum dated 26.10.2023 has already decided this issue and since the same has not been challenged by him in representation it has attained finality. Resultantly the Accused cannot now, so late in the day, reargue the question of maintainability. Further, the Accused has participated in the proceedings of this complaint till the final stage and so his conduct also estops him from raising an objection on maintainability.

6. Accordingly, in light of what has been discussed above I find the Accused guilty of harassment and impose on him the

		<p>penalty of dismissal from service under Section 4(4)(ii)(d) of the Act, along with a fine of Rs.1,000,000/- under Section 4(4)(ii)(e) of which Rs.800,000/- is to be paid to the Complainant as compensation for her mental agony and the balance is to be deposited in the state treasury. The Competent Authority at FUUAST shall implement the given penalties within 14 days from the date of receipt of this order and shall submit a compliance report to this Forum by <b>05.12.2024.</b></p>
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**FEDERAL OMBUDSPERSON**