

KASHMALA TARIQ**Federal Ombudsman:**

Complaint No. **1 (400)/2017-FOS** of **2017**

1. Through this order I intend to decide upon complaint filed by Asma Javed against Management of Shaheen Air International and Shahin Engineering and Aircraft Maintenance Services (SEAMS).
2. Brief facts of the case are that complainant was appointed as Trainee Engineer (Aerospace) on 24-09-2013 for a period of five years where complainant was to be provided necessary training and been successfully completed the requisite engineering license after which she would have been appointed as Engineer on contract.
3. Record shows that issue arose from complaint made by complainant against other male staff of smoking in a small container. Complainant has stated that she is allergic to smoke, falling which she made complaint to respondent No. 2 along with other issues like calling her on off days and even on the matters not concerned with complainant directly. She is complaining that adverse actions and humiliation arose after she filed a complaint against smoking that she was made to sit on a broken chair despite that she was suffering from severe ankle injury. Complainant was dissatisfied with inquiry conducted by SEAMS, after which complainant was forced to withdraw the complaint and complainant received explanation letter dated 30-08-2017 by respondent No. 4 signed by respondent No. 2. Subsequently respondent No. 6 made surprise visit to the office and attitude of respondent no. 6 was very casual and it was alleged that he said "who knows you step out of this room and report me for all I know in a very sarcastic manner". Similarly complainant was preparing for Module exams scheduled on 28-09-2017 in Al Falah University Dubai. Despite financial constraint in her family she applied leave on 18-09-2017 after making payment of Rs. 85000/- which included flight, exam, hotel and visa payment. On 21-09-2017 complainant was informed by respondent no. 5 that her leave was denied subject to ongoing Hajj operation. Complainant contest that there is no such justification to disallow her leave as this excuse has never been used in the past. Only 16000/- was reimbursed out of Rs. 85000/-.
4. Hence complainant suffered on the behest of respondents for not sanction of her

leave. After which on 22-09-2017 complainant was called into the office of Quality Representative where respondent no. 2 and 5 illegally and forcefully made complainant resigned and threatened that if she did not resign management will terminate her. Despite initial refusal as a result of extreme pressure complainant resigned without her free will.

5. It is also stated that on next day complainant pursued her contract and filed complaint but could not succeed. She also wrote emails but did not receive any correspondence. All efforts of complainant were in vain and she was not allowed to meet respondent no. 1. Subsequently father of complainant was also contacted Station Manager but yielded no result.

6. On the other hand respondents have submitted SEAMS inquiry report wherein findings are reproduced below:

- After analyzing Ms. Asma's complaint, statements that were recorded, self-observation at the ISB Station, it is hereby stated that Ms. Asma Javed completely failed to produce any concrete documentary evidence in support of her allegations.
- No medical reports were submitted of showing her having Asthma.
- Apparently it is clear that she has absolutely false allegations on her supervisors.
- In our opinion "she is not fit for SEAMS job".

7. Arguments heard.

We disagree with findings of inquiry report dated 02-08-2017. It manifests to the adverse actions taken against complainant because of the complaints she made. Firstly constitution of inquiry committee is not in line with Protection against Harassment of Women at Workplace Act, 2010.

8. Secondly it is rather strange that findings state that she was not able to prove her Asthma totally ignoring the fact that smoking cigarette in office is illegal.

9. Thirdly her log book entry is being noticed in year 2017. If it is true that her last entry is in the year 2014 then why did it take three years for the organization to find out it.

The Code of Conduct u/s 2 (c) of the Act is given in the Schedule of the Act in which harassment is defined as follows: -

"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;

Explanation:

There are three significant manifestations of harassment in the work environment:

(a) Abuse of authority

A demand by a person in authority, such as a supervisor, for sexual favors in order for the complainant to keep or obtain certain job benefits, be it a wage increase, a promotion, training opportunity, a transfer or the job itself.

(b) Creating a hostile environment

Any unwelcome sexual advance, request for sexual favors or other verbal or physical conduct of a sexual nature, which interferes with an individual's work performance or creates an intimidating, hostile, abusive or offensive work environment.

The typical "hostile environment" claim, in general, requires finding of a pattern of offensive conduct, however, in cases where the harassment is particularly severe, such as in cases involving physical contact, a single offensive incident will constitute a violation.

(c) Retaliation

The refusal to grant a sexual favor can result in retaliation, which may include limiting the employee's options for future promotions or training, distorting the evaluation reports, generating gossip against the employee or other ways of limiting access to his/her rights. Such behavior is also a part of the harassment.

10. Complainant suffered financial loss because of her denial of leave for her module exams in Al Falah University Dubai. It also does not make sense that an organization will keep trainee for four years and in her last year they will terminate contract which make her four years to waste.

**KASHMALA TARIQ
Federal Ombudsman**