



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

J U D G M E N T

1. Complaint Number: 1(214) / 2015-FOS (Reg)
2. Date of Institution: 05.10.2015
3. Date of Decision: 11.04.2016
4. Complainant: Mst. Danya Akbar
Trade Development Officer,
Consulate General of Pakistan,
Los Angeles,
USA.
5. Opponent: Qamar Abbas Khokhar
Head of Chancery,
Consulate General of Pakistan,
Los Angeles,
USA.

Justice (R) Yasmin Abbasey,

Ombudsman:

Complaint No. 1(214)/ 2015-FOS.

1. Complainant serving as Trade Development Officer in Consulate General of Pakistan, Los Angeles USA now removed on 20-10-2015 has moved this complaint against opponent Malik Qamar Abbas Khokhar, Head of Chancery at Consulate General of Pakistan, Los Angeles, stating that just after 7 months from the date of her appointment as Trade Development Officer, opponent had sexually harassed, manipulated, bullied and had retaliated towards her to show his position and power in the Consulate. It is alleged that he started sexual harassment against her from beginning of February 2015 with inappropriate comments about her personal appearance. He used to comment on her clothing, figure, jewelry and overall, physicality. These comments became a regular topic of discussion within every single interaction with opponent, combined with sexual innuendos and inappropriate close proximity, which was a feel to her an act of harassment and interference in her work. Because of opponents behavior complainant was extremely uncomfortable and began to rebuff the advances more forcefully. This rebuffing brought a new wave of harassment from opponent that is bullying. He constantly manipulate her in an effort to gain control over her in some aspect.
2. Secretarial duties and menial tasks were given to complainant by opponent instead of trade tasks to punish her for not acting in a certain way as desired. This exploitation of his power and position was an effort to minimize complainant's role towards her main function of trade. In spite of lack of respect and importance given to complainant's position she was trying to develop trade

department with regard to strategy, implementation of structural changes and improved outreach and initiatives. Complainant's initiatives were discouraged and priority was given to parties, events and personal tasks for Hamid Asghar Khan, Consul General and Qamar Abbas Khokhar, the opponent. Opponent's act of bullying started with posting of complainant to sit on the seat of reception desk from 22nd July to 31st July by a written order. Although complainant on multiple occasions volunteered to look after the reception desk for short periods of time but this act of opponent to place her at reception desk by a written order for which complainant had no experience was an attempt of opponent to overpower her. This act of opponent was complained to Hamid Asghar Khan, Consul General through email dated 23-07-2015 and in reply Consul General has assured to solve the problem. On 21-07-2015 opponent had also issued a warning letter to complainant.

3. It is alleged that due to constant behavior of opponent, Consular General ordered to maintain communication in between opponent and complainant through electronic means. In spite of that, opponent was pressurizing complainant to have personal meeting with him and when she refused opponent forced complainant to go on leave. It is stated that she was given medical leave but thereafter was not allowed to join duty and was forced to obtain medical certificate which is normally not issued by medical officers in USA until and unless person has any chronic disease. Complainant on the pretext of this ground was sent on forced leave by opponent and was not allowed to draw salary for the month of August and September, 2015. Matter was reported to Consul General but no action was taken thereon. Being disappointed with the behavior of Consul General Hamid Asghar Khan and opponent, complainant

has approached this forum.

4. Opponent Qamar Abbas Khokhar in his defence has pleaded that because of issuance of show cause notice and warning letter for being absent from duty without permission on 22-07-2015 she made complaint to Consul General on 23-07-2015 in retaliation. Before issuance of show cause notice and warning letter complainant never raised any objection nor complained against any act of opponent to any of senior officials about being harassed by him either for work or for any other ulterior motives. Posting of complainant on the seat of reception during leave period of Zahoor Elahi, Protocol Officer-cum-Receptionist was in accordance to the term of contract executed in between complainant and Consul Office. Even otherwise complainant prior to this was regularly performing duty of receptionist in place of Zahoor Elahi during Friday prayer and was familiar with the work. Complainant could had done her office work related to trade on the computer available on reception desk. Refusal of complainant to do work at reception desk through letter dated 21-07-2015 was taken seriously with the issuance of show cause notice and warning letter dated 21-07-2015. Instead of rectifying her behavior she remained absent from duty for which again a warning letter was issued to her on 23-07-2015. As complainant failed to give a solid reason for her absent from duty, therefore, she has accused opponent with the allegation of sexual harassment. Opponent has denied all allegations of sexual harassment, bullying and manipulating as alleged by complainant. According to opponent if someone has ulterior intention, they are reflected in the private SMS exchange between two parties and in support of his statement he has produced a Transcript of SMS in between him and complainant.

5. Both parties have produced the evidence. After going through the arguments presented by the parties representatives and evidence produced by them, I reached to the conclusion that complainant's complaint moved to Consul General on 23-07-2015 and on 11-08-2015 were totally ignored by Consul General and no action was taken thereon. This fact has been admitted by Consul General himself in his statement stating that "It is correct to suggest that emails sent to me by complainant about conduct of opponent were forwarded for comments. It is correct to suggest that on 11-08-2015 I received another complaint of complainant through email against opponent alleging manipulation and bullying. I have not taken any action on that complaint of complainant as there was no manipulation and bullying on the part of opponent." This observation of Consul General who was head of the institution at Los Angeles is inappropriate because it was his responsibility to make an inquiry on that complaint of complainant, to judge the same as true or false before any investigation in the matter is against principle of natural justice. Without any inquiry he cannot brushed it aside merely stating that "I was shocked to receive complaint of complainant on the ground of sexual harassment against opponent as opponent has four daughters and a wife who observe parda" It was also a wrong act on the part of Consul General to ignore the complaint of complainant without probing in to the matter just on the ground that "I gather that this email of 23-07-2015 sent to me was in retaliation of warning letter received by her from opponent." Being a Consul General holding a responsible post in Los Angeles, it is not expected that he would be ignorant of the law relating to the workplace harassment enacted in 2010. Statement of Consul General that he had not constituted inquiry committee on receiving of the complaint of the complainant

because there was no other officer in the Consulate General beside him and opponent. However after receiving this complaint he has written letter to all office staff members to communicate their views about complainant and opponent of last 8-9 months. Instead of a shocking moment to Consul General on receiving complaint of complainant against opponent, it is also shocking for this office of FOS that a person holding a seat of Consul General was unaware of this law of Act of 2010. Section 3 of this Act specifically says that each organization shall constitute an inquiry committee within 30 days of the enactment of this Act to enquire into complaints under this Act. If the organization does not have full member as required under sub section (2)&(3), the very section says that “one or more members can be opted from outside the organization if the organization is unable to designate 3 members as described above”.

6. Because of this irregularity committed by the Consul General for not conducting inquiry on complaint of the complainant in the manner as provided in the Act of 2010, I am of the view that the termination of complainant from the post by order dated 20-10-2015 is liable to be set aside because even if this termination is taken on disciplinary grounds then also no reason has been assigned by the organization that in spite of moving complaint by the complainant on 23-07-2015 and 11-08-2015, why complainant remained under control of opponent because it is employer's duty that after receiving such complaint he should make temporary adjustment so that the accused and the complainant do not have to interact for official purpose during the investigation period. Further neither opportunity of hearing was provided to complainant after issuance of warning letter and show cause notice issued on same date of 23-07-2015 nor such

temporary arrangement was made as provided under law. In such circumstances statement of complainant cannot be discarded that demand of medical certificate by letter dated 20-08-2015 and forcing her not to join duty without fitness certificate is an act which has been repeatedly complained by the complainant as an act of bullying / harassment. Statement of Consul General that as there were no sufficient officers in Consulate Office to constitute inquiry committee, therefore, he had written a letter to all of his office staff to communicate their views about relation of parties of last 8-9 months, is very astonishing because clause (v) of Code of conduct specifically say that:-

“If the case is taken up for investigation at an informal level, a senior manager from the office or the head office will conduct the investigation in a confidential manner. The alleged accused will be approached with the intention of resolving the matter in a confidential manner.”

Whereas Consul General had made it a public discussion matter to further humiliate complainant.

7. It is because of this, it is mandatory for head of every organization to display the code of conduct scheduled under the Act in terms of section 11 of Act 2010 at a conspicuous place in the organization being a guideline for both employer and employee. Term “organization” has been defined in section 2 (l) as Federal or Provincial Government Ministry, Division or departments etc., established or controlled by the Federal or Provincial Government..... And definitely an embassy of Pakistan situated at Los Angeles is established by Foreign Ministry of Pakistan and thus law of Protection against Harassment of Women at Workplace Act 2010 is fully applicable on Consul General at Los Angeles.
8. Hence without going into the merits of the case, Ministry of Foreign Affairs is

hereby directed to investigate the matter on the complaint of the complainant moved on 23-07-2015 and 11-08-2015 through an inquiry committee with unbiased mind and impartial attitude.

9. In view of above, order dated 20-10-2015 of termination of complainant will remain suspended till final decision of matter. She may allowed to join duties.
10. Complaint disposed off accordingly. Parties be informed. Issue letter to Ministry of Foreign affairs to implement this order of FOS and report to this office about recommendation of Inquiry committee within 30 days of the receipt of this order.

JUSTICE (R) YASMIN ABBASEY
Federal Ombudsman