

OFFICE OF THE FEDERAL OMBUDSPERSON

FOR PROTECTION AGAINST HARASSMENT OF WOMEN

AT THE WORKPLACE, ISLAMABAD

FORM OF ORDER SHEET

Complaint No. FOH-HQR-H/033/2025

Date of Institution: 20-01-2025

Serial No. of Order of Proceedings	Date of order of Proceedings	Order of other proceedings with Signature of Federal Ombudsperson			
		TITLE:	Dr. Asma Kiyani	VS	Dr. Mazhar Hussain
1	2	Department: National Institute of Rehabilitation Medicine			
		3			
19	20-08-2025	<p><u>Subject:</u> Final Order.</p> <p>Complainant, Dr. Asma Kiyani is present along with her counsel, Mr. Musa Khan AmanUllah, Advocate.</p> <p>Accused, Dr. Mazhar Hussain is also present in person.</p> <p>Final arguments from both sides have been heard, and the record has also been perused.</p> <p>1. The complaint was lodged by Dr. Asma Kiyani (<i>hereinafter referred to as the “Complainant”</i>) who joined NIRM Hospital, Islamabad, in 2008 as a Medical Officer (BPS-17). She states that after completing her FCPS in Psychiatry from PIMS, she was promoted to BPS-18 in the Consultant Cadre in 2021 and, has since been serving in NIRM as a Consultant Psychiatrist.</p> <p>Conversely, Dr. Mazhar Hussain (<i>hereinafter referred to as the “Accused”</i>) has been serving in the same institution as Director Technical.</p> <p>2. The Complainant lodged a complaint dated 20-01-2025 before Federal Ombudsperson for Protection Against Harassment At Workplace (FOSPAH) under Section 8 of</p>			

the Protection Against Harassment of Women at the Workplace Act, 2010, alleging that she was subjected to harassment by the Accused, who allegedly harassed her sexually, misused his administrative authority, created a hostile work environment and discriminated against her based on her gender. It is crucial to highlight that the complainant first lodged a complaint before the Executive Director (ED) NIRM Hospital dated 23-12-2024 and before Secretary, Ministry dated 01-01-2025. After lodging the complaint before this forum, the Complainant among others received legal notices from the Accused dated 24-01-2025.

3. In support of her stance, the Complainant referred to an incident of harassment dated December 20th, 2024, involving the Accused, Dr. Mazhar Hussain. She stated that she had submitted a casual leave application on December 19th, 2024 for the following two days (Friday & Saturday) through the R&I Section and had personally informed the Deputy Director (Admin) of the reason for her leave. The Deputy Director signed her application in her presence, and she proceeded to avail her leave on Friday in accordance with the SOPs of NIRM Hospital. The Complainant alleged that the Accused, Dr. Mazhar Hussain who had been stalking her, saw this as an opportunity to entrap her. On the morning of Friday, December 20th, 2024 at approximately 9:00 AM, the Accused allegedly entered the Psychiatry OPD without invitation, forcefully opened the door, and aggressively inquired about her absence, causing a disturbance in the presence of patients. The Medical Officer (Dr. Ahmad Zeb PW-2) on duty informed him of the Complainant's leave had been duly approved; however, the Accused, allegedly took photographs of her vacant chair and desk using his personal mobile phone, thereby misusing his administrative authority.

4. That the Complainant further alleged that the conduct of the Accused towards her had been harassing for some time, prior to the incident. He would allegedly stalk and stare at her at the hospital gate during morning hours, causing her discomfort. She further stated that her Key Performance Indicators (KPIs) for June, July, and August were unfairly reduced by approximately 70%, despite her consistent performance, and her queries regarding the deduction formula were ignored. Following the Key Performance Indicators (KPIs) dispute, the harassment allegedly intensified. After December 20th, 2024, the Accused purportedly sent his associates to follow her, heightening her sense of insecurity. She alleged that the Accused had tarnished her dignity in front of her subordinates, leaving her vulnerable despite her adherence to official protocols. She claimed that he collected material to blackmail her and expressed concern over the potential misuse of photographs. That the Complainant also referred to the Accused's alleged history since 2017 of stalking and harassing consultants, female doctors, and nursing staff by taking photographs and videos in OPDs, wards, and operation theatres for blackmail purposes without the consent of concerned people. It was further alleged that he had previously displayed weapons and ammunition to threaten others in the past. He was also found guilty of harassment in 2020 and was suspended from service vide Notification dated October 19th, 2020 but had rejoined NIRM Hospital in 2024 through influence. The Complainant feared becoming a victim due to her gender, making her an easy target for the Accused. On December 23rd, 2024 she submitted a written complaint to the Executive Director (ED) of NIRM, which remained unaddressed. She asserted that the incident had created a hostile work environment, leaving her feeling unsafe, and sought immediate legal action to ensure a safe workplace for all staff.

5. In addition, the complainant annexed substantial documentary evidence with her complaint including a Fact-Finding Inquiry report, staff complaints, and recommendations of the Standing Committee of the National Assembly Secretariat on National Health Services, Regulation & Coordination. In efforts to substantiate her allegations, the Complainant herself appeared as **PW-1** and submitted her Affidavit marked as **Ex-A**. In the support of Complainant, Dr. Ahmad Zeb, deposed as **PW-2** and submitted an affidavit. Following documents were submitted by the complainant:
Ex-PW 1/11, 2/11: Application to Secretary CADD; **Ex-PW 3/11**: Notification dated 19-10-2020; **Ex-PW 4/11**: Office Memorandum dated 27-10-2020; **Ex-PW 5/11**: Office Order dated 7-2-2022; **Ex-PW 6/11**: Notification dated 27-10-2020; **Ex-PW 7/11**: Terms of Reference; **Ex-PW 8/11**: Recommendations, **Ex PW 9/11**: Notification dated 31-3-2022; **Ex-PW 10/11**: Recommendations of the Standing Committee dated 27 July 2022; **Ex-PW 11/11**: Matters Relating to Personal File of Dr. Mazhar Hussain.
6. The Accused, in his written reply to the complaint, claimed that as a Director and a strict disciplinarian, he adhered to prescribed rules and expected others to do the same. He alleged that the Complainant and certain colleagues were obstructing him by lodging fabricated complaints and spreading false propaganda in the media. He annexed documents purporting to show the Complainant's habitual unpunctuality, which according to him justified the complainant's KPI deductions. The Accused, during the recording of evidence appeared himself as **DW-1** and submitted an affidavit based on his testimony which was marked as **Ex-D(1)**. The Accused produced Dr. Adnan Riaz (Deputy Director) as **DW-2**, Hafiz Allah Dita (Gate Keeper) as **DW-3**, Nasir Mehmood (Gate Keeper) as **DW-4** and Muhammad Farooq (UDC) as **DW-5**. All the witnesses submitted their sworn testimony affidavits which

were exhibited. In addition, among the affidavits, following documents were submitted by the Accused Dr. Mazhar Hussain which were marked and exhibited accordingly:

Ex DW 1/1: Affidavit by Dr. Mazhar Hussain; **Ex-DW 2/1:** Affidavit by Adnan Riaz; **Ex-DW 3/1:** Affidavit by Hafiz Allah Ditta; **Ex-DW 4/1:** Affidavit by Nasir Mahmood; **Ex-DW 5/1:** Affidavit by Muhammad Farooq; **Ex-DW 2/2:** OPD Statistics; **Ex-DW 2/3:** Office order dated 01-06-2021; **Ex-DW 2/4:** Casual Leave Record (2021); **Ex-DW 2/5:** Casual Leave Record (2022); **Ex-DW 2/6:** Casual Leave Record (2023); **Ex-DW 2/7:** Leave Record (2024); **Ex-DW 2/8:** Leave Account of Dr. Asma Kiyani; **Ex-DW 2/9:** Application for Fixation of Psychiatry Ward and OPD Days; **Ex-DW 2/10:** Peon Book; **Ex-DW 2/11:** Application for Casual Leaves; **Ex-DW 2/12:** Complaint Against Dr. Mazhar to Executive Director, NIRM; **Ex-DW 2/13:** Key Performance Indicators (KPIs) Form; **Ex-DW 2/14:** Application by Dr. Shaista Habibullah to Secretary CADD; **Ex-DW 2/15:** Efficiency and Discipline (E&D) proceedings; **Ex-DW 2/16:** Report/Letter regarding non-punctuality of Dr. Asma Kiyani; **Ex-DW 2/17:** Office Order dated 3-7-2023; **Ex-DW 2/18:** Office Order; **Ex-DW 2/19:** Prime Minister's Initiative on Mental Health of Pakistani Citizens; **Ex-DW 2/20:** Biometric Attendance Record of Dr. Ahmed Zeb (2024); **Ex-DW 2/21:** Record of Admissions by Dr. Asma Kiyani from 12-7-2023 to 28-2-2025. **Mark-1 (2 Pages):** Screenshots; **Mark-2:** Report/Letter regarding non-punctuality of Dr. Asma Kiyani; **Mark-3:** Report regarding non-professional behaviour of Dr. Muhammad Ali; **Mark-4:** Attendance Record for calendar Year 2024 NIRM Hospital; **Mark-5:** Attendance Record for Calendar Year 2024 NIRM

7. I have heard the arguments from both parties and examined the record in detail.

8. Before addressing the merits, reference is made to the findings of an inquiry committee constituted to review the affairs of NIRM Islamabad, vide order dated November 17th, 2020. The Committee noted strong factionalism and internal rifts among the two groups particularly between the group represented by Dr. Fareed Ullah Zimri, Orthopedic Surgeon, supported by Ex-ED Fazal-e-Moula, and the previous management led by Ex-ED Dr. Shaista Habibullah and DD (Services) Dr. Mazhar Hussain (Accused). The committee unanimously opined that such personal disputes had created a toxic workplace environment and must be eliminated to ensure professional functioning. The above remarks of the committee clearly indicate the internal division and strife among the medical staff, which is, of course, both shocking and deplorable. A community meant to serve ailing humanity stands divided over a few petty, mundane benefits. Those at the helm of affairs should take serious notice of such a state of affairs in the hospital to ensure its smooth functioning and to create an environment conducive to the well-being of the patients.

9. The singular question that requires resolution in this instant matter is whether the grievances of the Complainant fall within the ambit of harassment as defined in Section 2(h)(i) and/or Section 2(h)(ii) of the Act?

For reference, Section 2(h) of the Act is reproduced below:

“2. Definitions. In this Act, unless there is anything repugnant in the subject or context—

(h) “harassment” means:—

(i) any unwelcome sexual advance, request for sexual favors, stalking or cyberstalking or other verbal, visual or written communication or physical conduct of a sexual nature or sexually demeaning attitudes, including any gestures or expression conveying

derogatory connotation causing interference with work performance or creating an intimidating, hostile or offensive work environment, The attempt to punish the Complainant for refusal to comply to such a request or is made a condition for employment; or

(ii) discrimination on basis of gender, which may or may not be sexual in nature, but which may embody a discriminatory and prejudicial mind set or notion, resulting in discriminatory behavior on basis of gender against the Complainant;”

10. It is evident from the definition of harassment given above that harassment comprises two limbs. The first limb is regarding sexual harassment [refer Section 2(h)(i) of the Act] whereas the second limb is concerned with discrimination on the basis of gender. Therefore, only when a complaint falls under one of the said two limbs can be considered by this Forum and any other kind of harassment, however serious and grave, is beyond its ambit. Keeping in view the stated legal context, the instant complaint must now be examined on following legal issues:

Issue No. 1

Whether the conduct of the Accused, as alleged by the Complainant, amounts to workplace harassment within the meaning of Section 2(h) of the Protection Against Harassment of Women at the Workplace Act, 2010?

Issue No. 2

Whether the Accused created a hostile work environment and retaliation for the complainant and her witness?

11. Coming to **Issue No. 1**, it is part of the record that the Complainant, Dr. Asma Kiyani has served at NIRM Hospital since 2008 and is presently working as a

Consultant Psychiatrist. The Complainant's grievances against the Accused pre-dated the instant complaint. In her letter dated December 23rd, 2024, to the Executive Director, she alleged that despite being on approved casual leave on 20th December 2024, the Accused entered the Psychiatry OPD and questioned her absence in a harsh tone, thereby disrupting work. She alleged he took photographs of her workplace to use against her. It is pertinent to mention here that, the Accused was informed of her casual leave by Dr. Ahmad Zeb, Medical Officer (PW-2), yet he deliberately took out his personal mobile phone to take a picture of the consultant's chair and table, thereby, misusing his administrative authority. This particular stance of the Complainant is proved during his cross examination as well. The relevant portion from the Cross Examination of Dr Ahmad Zeb, PW-2 is produced under as well:

"I have given the details of the incident which took place on 20-12-2024 in my office. I was very much present in my office, when Accused Dr. Mazhar Hussain came to my office, with whom I met also. It is incorrect to suggest that when the Accused came to my office, I was not available in my office. At the time of incident, an Aaya namely; Shehnaz was present with me. I have correctly mentioned in my affidavit that Accused pushed the door of OPD."

12. Although the Accused alleged that PW-2 Dr. Ahmad Zeb was absent, yet he couldn't produce any material evidence to impeach his testimony. Needless to add, that Dr. Ahmad Zeb (PW-2) was present on duty which is duly corroborated by **Biometric Record (Ex 2/20)**.

Perusal of record reveals that similar complaints: in 2018 by Dr. Shaista Habibullah, and in 2017 relating to threats and seizure of personal files were lodged against the Accused as well for which he was suspended on October 19th, 2020. A privilege motion against him was moved in the National Assembly in 2021 for harassment of staff. The

Standing Committee later recommended that he be posted outside NIRM and undergo a medical examination by a classified surgeon. A 2022 fact-finding inquiry describing him (Accused) as “**troublesome**” and prone to interference in unrelated matters, taking photographs and videos on trivial issues. It is important to reproduce the Accused Dr. Mazhar’s cross examination in this regard which is as follows:

“It is incorrect to suggest that during my administrative tenure, a lot of complaints were filed against me which culminated in my suspension and disciplinary action against me.”

I’d like to point out that despite documentary proof in the form of **Ex DW 2/14, 2/15**, Notification **Dated 27-10-2020, Ex-PW 7/11**, Terms of Reference, **Ex-PW 8/11**, Recommendations, **Ex PW 9/11**, Notification Dated 31-3-2022; **Ex-PW 10/11**, Recommendations of the Standing Committee dated 27 July 2022, **Ex-PW 11/11** and Matters Relating to Personal File of Dr. Mazhar Hussain, the Accused Dr. Mazhar Hussain chose to lie under oath.

13. The record also reflects that two diary numbers appear on the same leave application (Ex DW-2/11), admitted by the Accused without explanation, and that he did not pass any formal order rejecting the leave before marking her absent on 24-12-2024.

Relevant portion of the Cross Examination of Dr Mazhar Hussain Accused DW-1 is reproduced below:

It is correct that in both Ex DW 1/6 and Ex DW ½ the reference number is the same i.e., NO. F1-16-96-NIRM. It is incorrect to suggest that I am being supported by the admin section in relation to this case.”

Similarly, relevant portion of Dr. Adnan Riaz, DW-2 is reproduced below:

“I do not remember the leave status of the complainant on the relevant day.”

14. These facts establish that the absence marking was unjustified and motivated by ill-will; that the Accused Dr. Mazhar Hussain submitted duplicated documents with the same reference number (NO. F1-16-96-NIRM) having two diary numbers which make them forged/managed and; that Dr. Adnan Riaz, DW-2 signed the application yet forgetting it's status is unlikely, showing his subordination to the accused and bias against the Complainant.

Explanation of the Accused that he visited the OPD on a patient's complaint is unsupported by record. No written complaint, patient name, CCTV footage, or corroborating witness from other departments was produced.

Relevant portion of Cross-Examination of Accused DW-1 Dr. Mazhar is reproduced below:

“That I have not attached CCTV footage regarding the incident at the psychiatry OPD on 20-12-2024. Volunteered that no CCTV camera is installed in the Psychiatry Department. Volunteered that I have a USB with the video in this regard, which I have submitted before this forum”.

15. It is worthy to mention here that no such video has been exhibited by the accused Dr. Mazhar Hussain. Besides, no CCTV cameras exist in the Psychiatry Department. **Article 129 of Qanoon-e-Shahadat Order states, “Court may presume existence of certain facts.– The Court may presume the existence of any fact which it thinks likely to have happened, regard being had to the common course of natural events, human conduct and public and private business, in their relation to the facts of the particular case. Illustrations-The Court may presume (g) “that evidence which could be and is not produced would, if produced, be unfavorable to the person who withholds it.”**

16. In light of the above discussion, since the Complainant was on leave that day i.e., 20-12-2024, the act of marking the Complainant absent despite approved leave shows mala fide intent and created a hostile work environment. While this evidence does not show that it was accompanied by any unwelcome sexual advance, sexual connotation, sexually demeaning attitude, or other conduct of a sexual nature required under Section 2(h)(i), it demonstrates prejudicial behaviour towards the complainant that falls under Section 2(h)(ii) indicating gender based discrimination.

17. The second allegation leveled by the complainant regarding presence of the Accused Dr. Mazhar Hussain at the Gate of NIRM hospital was never refuted. In fact, the same was endorsed by the DW-4 Nasir Mehmood (Gate Keeper) that the Accused used to visit the gate once or twice a month, each time for fifteen minutes. For perusal, relevant portion of the Cross-Examination is reproduced below:

“I performed my duty at the gate of the hospital for 25 years. I know the allegation against the Accused in this case. Volunteered that the allegation of the Complainant against the Accused that he sits on the gate and causes harassment is incorrect. Further volunteered that the accused used to visit the gate once or twice a month, each time for fifteen minutes.”

It is pertinent to mention here that DW-3 Hafiz Allah Dita's (Gate Keeper) and DW-4 Nasir Mehmood's (Gate Keeper) affidavits are identical and DW-5 Muhammad Farooq's and Dr, Adnan Riaz's Affidavits are identical. It is important to note that two of these witnesses i.e., DW-3 and DW-4 are not only unable to read the contents of the affidavits submitted by them, they admitted that the Accused handed over the Affidavits to them for their respective signatures.

Besides, all the witnesses produced by the Accused are his sub-ordinates thereby establishing influence by the Accused, especially when he has past documented record of threatening and harassing staff. Furthermore, it raises doubts about impartiality of the witnesses.

In addition, the statement of DW-5, Muhammad Farooq regarding the doors of OPD remaining open even if the Doctors are not present contradicts, DW-2 Dr. Adnan Riaz's Statement, that the room was closed/locked.

18. Since, all the witnesses are interested witnesses having identical affidavits submitted in the evidence, who can't even read their affidavits and which they merely signed on the direction of their Senior (Accused) has no material substance in them, therefore, the statements of DW-3 and DW-4 are discarded. Reliance in this regard is placed on Supreme Court of Pakistan in **Sajid Mehmood v. State (2022 SCMR 1882)** and in **Abid Ali v. The State (2011 SCMR 208)**

“They are interested witnesses whose evidence has no substance, as held by the wherein it was held that the credibility of a witness depends upon the intrinsic value of the statement made by them.”

19. In harassment cases, the victim's perspective is crucial, as stated in the **Nadia Naz vs President of Islamic Republic of Pakistan [PLD 2023 SC 588]** judgment wherein, it has been held:

“14. ...In cases of harassment, the victim's perspective is relevant as against the notion of acceptable behavior. The standard of a reasonable woman should be considered to determine whether there was harassment, which rendered the workplace hostile and all relevant factors should be viewed objectively and subjectively...”

The complainant's allegation that she felt stalked/stared at the gates of the hospital needs to be kept in view because it made her uncomfortable. Besides, the fact that it is quite unlikely for such a Senior Officer to stand at the gates of the hospital without any official reason especially when biometric attendance systems are in place, supports the Complainant's allegation.

20. I will now come to the issue of Key Performance Indicators (KPIs) which were allegedly deducted from the Complainant's income in retaliation and targeted gender-based discrimination for standing up against the Accused. Perusal of the record reveals that as per EX DW 2/2, the Psychiatry Department checked more than 25,000 patients between 2021 to 2025. Similarly, in the Cross-Examination of DW-1 Dr. Mazhar Hussain, he claimed that 13% of attendance is part of KPIs which are adjusted according to biometric record. However, perusal of the record reveals that Complainant's KPI deduction was grossly disproportionate and didn't add up mathematically. The Accused Dr. Mazhar Hussain's (Ex 1/10) has stated that the Complainant only performed her duty for 134 days. It is impossible for a consultant to examine 25,184 patients in 134 days. This would technically mean that it took the complainant 1.8 minutes to see one patient and that, in the year 2021 as per Ex-1/10, the Complainant attended her duty only once whereby, she managed to see roughly 7000 patients in one day.

In addition, relevant portion regarding KPI formula of the Cross-Examination of Dr. Adnan Riaz (DW-2) is reproduced below:

"It is correct that KPI formula is applicable to all doctors. It is correct that no deductions were made in my KPI during my leaves".

It is important to point out that as per EX ¼ there is not much of a difference in Dr. Adnan Riaz's (DW-2) KPIs and

the Complainant's KPIs. However, there was no KPI deduction for Dr. Adnan Riaz despite the same formula being applied to both of them. The KPI deduction of approximately 70% remains unexplained and disproportionate, providing convincing evidence of gender-based discrimination which is defined in Section 2(h)(ii) of the Act as follows: "discrimination on the basis of gender, which may or may not be sexual in nature, but which may embody a discriminatory and prejudicial mind set or notion, resulting in discriminatory behavior on basis of gender against the complainant."

21. Similarly, it is part of the record that the Complainant has clean past record and was only issued only one warning in 2015 for a late sitting which reflects dedication and commitment on her part as compared to the Accused, who's track record has already been part of record and is incorporated in previous paras.

22. Now addressing the **Issue No. 2**, Perusal of the record reveals that the Accused initiated E & D Proceedings against the Complainant dated 28-12-2024 and sent legal notices to the complainant and others right after Complainant lodged her complaint. It is pertinent to mention here, that the complainant submitted harassment application to the Executive Director (ED) on 23-12-2024. In totality of circumstances, timeline of these incidents proves that the Accused retaliated post harassment complaint submission. Furthermore, the Accused did not follow the due procedure of E & D Proceedings as well. The only purpose was to create a hostile work environment and dominate his authority over the complainant and other staff members. Relevant portion of the cross examination of the accused is reproduced below:

"It is incorrect to suggest that I had proposed E & D proceedings against the complainant after she filed a complaint against me to ED. It is incorrect to suggest

that there is clear cut proof of gender based discrimination.”

“It is incorrect to suggest that in capacity of Boss I cannot issue legal notice to my subordinates, volunteered that I can do it.”

“It is incorrect to suggest that while initiating E & D proceedings I have not adopted the legal course.”

23. The Accused as a superior of the Complainant failed to follow the procedure laid down in Efficiency and Discipline Rules (E & D) 2020. Neither she was informed nor she was issued a show cause notice or statement of allegations against her in this regard. For persual, relevant portion of E & D Rules 2020 are reproduced below:

6. Initiation of proceedings. *Proceedings against the civil servant, in case where the authority decides that it is not necessary to hold an inquiry, shall be initiated from the date the accused is informed by an order in writing of the grounds of proceedings against him and where the authority decides to hold an inquiry against the accused, from the date of such order.*

7. Procedure where inquiry is dispensed with. If the authority decides that it is not necessary to hold an inquiry against the accused, it shall:

(a) inform the accused, by an order in writing, of the grounds for proceedings against him, clearly specifying the charges therein, along with apportionment of responsibility and penalty or penalties proposed to be imposed upon him;

(b) give him a reasonable opportunity of showing cause against the proposed action, which should not be less than ten days and more than fourteen

days, from the receipt of the order or within such extended period, as the

authority may allow;

(c) on receipt of reply of the accused, within the stipulated period or after the expiry thereof, if no reply is received, on the basis of available record or facts of the case, as the case may be, determine whether the charge or charges have been proved against the accused or not:

Provided that after receipt of reply to the show cause notice from the accused or in case where no reply is received the authority shall, except in such cases where the President or the Prime Minister is the authority, decide the case within a period of thirty days;

(d) afford an opportunity of personal hearing, before passing any order of penalty under clause (f), if the charge or charges have been proved against him;

(e) exonerate the accused, by an order in writing, if the charge or charges have not been proved against him; and

(f) impose any one or more penalties, mentioned in rule 4, by an order in writing, if the charge or charges have been proved against the accused.

24. None of the above prescribed procedure was followed in the proceedings. Yet upon discovery by the Accused, that Dr. Ahmad Zeb PW-2 is going to testify against him, Dr. Ahmed Zeb was unjustly transferred. It is worth mentioning here that vide order dated 18-03-2025, this forum halted/cancelled the transfer orders of Dr. Ahmad Zeb, until the matter is sub-judice before this forum. For

reference, relevant portion of the order sheet is reproduced below:

“It has been pointed out by the Complainant side that Dr. Ahmad Zeb who is the witness of the Complainant, during proceedings of the instant complaint at this Forum, has been transferred. Such transfer, in given circumstances, apparently seems to be an act of retaliation or adverse action against the said witness which is not allowed by the Act 2010. Hence, the transfer order of Dr. Ahmad Zeb is hereby, cancelled/withdrawn till this case is pending before this Forum.”

25. In view of the above discussion, it can be said that the accused deliberately created a hostile work environment to coerce and punish not only the Complainant but also her witness. Accused's conduct regarding initiation of E & D Proceedings, sending legal notices, extending threats of dire consequences etc., after lodging of the complaint demonstrated retaliation, misuse of position and abuse of authority.

26. It is unlikely, that a Doctor such as Complainant who has a clean past record shall risk her dignity by filing a frivolous complaint (See **Asif Saleem Vs. Chairman BOG University of Lahore** [PLD 2019 Lah 407]). Besides, her perspective is to be considered in deciding the complaint as it is settled by precedents. She has faced retaliation after filing the complaint, only her KPI's were deducted, accused abused his administrative authority to manipulate and influence the departmental proceedings and finally discriminated against the complainant.

27. In view of the above, the Accused's acts of visiting the Complainant's workplace during approved leave, marking her absent, and imposing disproportionate KPI deductions are proven and constitute harassment under Section 2(h)(ii)

28. It is very unfortunate that Gender Based Discrimination often goes unseen due to “collective ignorance”. It is only evident to the person being discriminated against due to his/her gender, which may be exacerbated by their social position, because for others it is so subtle that it is almost normal. Our society normalizes the inferior position of women and stigmatizes women who work. Behavior of the Accused being in an authoritative position appeared to be reproducing societal norms, thereby exhibiting a prejudicial mindset. It would also be erroneous to assume that the experience of women and men would be the same at the workplace, let alone response to the demeaning behavior of the senior. Hence while many women chose to stay quiet, it is appreciable that the present Complainant decided to raise her voice against this systematic act of targeted harassment.

29. The Hon’ble Supreme Court in *Uzma Naveed Chaudhary vs. Federation of Pakistan [PLD 2022 SC 783]* has observed that the 2010 Act is premised on the constitutional values of right to life, dignity and equality:

“13. Viewing the Act on a constitutional plane, we note that the right to a safe working environment for all genders including male, female and transgender, free of harassment, abuse and intimidation draws its real strength from the fundamental rights guaranteed under the Constitution: right to life includes the right to livelihood, and thus assumes the right to a safe working environment for everyone, especially women, for earning such a livelihood; intimidating, hostile, abusive and offensive workplace environment offends the right to livelihood and the right to life of a person... Any act of harassment

done by any person that affects the free choice to enter and continue any lawful profession or occupation would amount to threatening the safety of the working environment... These rights read with the rights to dignity, equality and protection against discrimination on the basis of sex under Articles 14 and 25 construct the constitutional foundations of 'gender equality' which ensures safe working environment for all genders, free from all forms of harassment, including sexual harassment.

14. ...The universal value of human dignity provides that "all human beings are born free and equal in dignity and rights." It shuns patriarchy, misogyny and the age-old archaic and dogmatic social norms, and nurtures progressive and forward-looking constitutional ideals of liberty, equality and social justice. It is time to bid farewell to gender biases and prejudices, and pave the way towards the actualization of these robust and unwavering constitutional ideals and values by embracing the participation of women in all spheres of life with honour and dignity..."

30. Relying on *Salman Bukhari v. Nadia Hassan*, and in exercise of powers under Section 4(4)(ii)(e) of the Act, 2010, a fine of Rs. 1,000,000/- is imposed upon the Accused, half payable to the Complainant as compensation and half to be deposited in the National Exchequer.

31. Though the decision on posting lies with the administration, it is recommended, in the interest of justice and to maintain a safe work environment, that the Accused

		<p>be transferred to a posting without administrative authority to prevent the abuse of the same against colleagues.</p>
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