



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

J U D G M E N T

1. Complaint Number: 1(68)/2013-FOS
2. Date of Institution: 04-06-2013
3. Date of Decision: 30-08-2013
4. Complainant: Ghazala Shahid
Director (Admn & Accounts)
PNCA, Islamabad.
5. Respondent: Mr. Mashood Mirza
Joint Secretary, Ministry of Heritage,
Islamabad.

Yasmin Abbasey,

Ombudsman:

Complaint No. 1(68)/ 2013-FOS

1. Case of complainant is that she is working in National Construction Limited (NCL) an organization under Ministry of Housing and Works on contract basis in March 2005. During her employment government introduce a policy of regularizing of all the contract / daily wages employees of all the Ministries /Division/Organization and Department. As NCL was reluctant to send the case of complainant for regularization therefore she filed a writ petition in Islamabad High Court for treating at par with the other government contract employees. During pendency of that writ petition complainant got an opportunity to join Pakistan National Counsel of Arts (PNCA) on deputation which was under the administrative control of Ministry of National Heritage and Integration. Notification in this regard was issued on 23-04-2012, complainant was posted as Director (Administration & Account).
2. It is alleged by complainant that the Director (CPI) in PNCA was interested to have the post of Director (Admn & Accounts) on additional charge. To achieve that purpose NCL provided confidential documents of complainant to Director (CPI) of

PNCA who is said to be a friend of NCL high-up to make a ground for her repatriation. It is further alleged that inspite of direction of Establishment Division issued on 04-7-2012, whereby all Ministries/ Divisions/ Department and Organizations were directed not to terminate any employee who has completed one year contractual service till decision of Cabinet Sub Committee, contract of complainant was extended conditionally. In meeting of Establishment Division of 29-11-2012 complainant was regularized and notification to that effect was issued on 22-01-2013. After regularization of service of complainant writ petition filed by her in Islamabad High Court was disposed of with the observation that “since the appeal has born fruit, the same is accordingly stands disposed of”.

3. To show the malafiedy it is stated by complainant that although the Establishment Division had issued a letter of her repatriation which was received by PNCA on 02-5-2013 but opponent malafiedly a day earlier before receiving that notification, on 29-4-2013 had ordered to relieve the complainant. It is alleged that Joint Secretary (Admin) kept on pressurizing her to relinquish the charge immediately just to give an additional charge of Director (Admin & Accounts) to Director (CPI).

4. It is stated that as soon Director General PNCA on 11-5-2013 had gone on ex-Pakistan leave for a week JS (Admin) as incharge got a chance to humiliate the complainant which he did by holding a open Kacheri in PNCA Auditorium with the officials of that department. During that meeting a group of Director (CPI) was constantly targeting complainant relating to her administrative work. In that pre planed meeting complainant was asked to give a presentation of old record which was not possible to complete in short spill of time of a day, given to her. It is alleged that JS pressurize DG to write a letter to Secretary of Ministry of Heritage and Integration to stop her salary for the month of May 2013.
5. In view of above facts it is prayed that her application be treated under section 8 (2) of Act 2010 and order for release of salary for the month of May 2013 be issued.
6. Opponent in his reply had not disputed the appointment of complainant in National Construction Limited and thereafter on her transfer on deputation in PNCA vide Establishment Division notification dated 03-5-2012. It is stated that Anjum Sajjad Gohar an employee of PNCA filed a writ petition in Islamabad High Court regarding irregular appointment complainant on deputation as Director (Admin & Account). During pendency of that petition Ministry of National Heritage

and Integration had requested NCL to verify the service status of complainant which was provided with the information that she was a contract appointee at the time of deputation in PNCA and her term of contract will expire on 31-10-2012. On knowing the expiry period of contract mater was reported to Establishment Division with a proposal to repatriate to her parent department which was agreed by Establishment Division with the issuance of notification dated 30-4-2013. As the complainant was not willing to go to her parent department therefore she adopted different modes charge relinquishment.

7. Inspite of the fact that the order of repatriation informed by the Secretary of National Heritage and Integration division personally to her in presence of opponent and opponent has also read out the contents of letter of DG to her.
8. Both the parties have produced their evidence.
9. My findings on the above facts are as under:

After perusal of pleading and the evidence produced by the parties I am of the view that the dispute arose from the day when according to complainant NCL authorities were reluctant to send her case to sub committee of Cabinet Division for regularization of her contract service and because of act of NCL she was pressurized to approach to the court of law

however in the meanwhile her services were regularized by sub committee of Cabinet Division. Record further shows that one another writ petition was filed by an employee of PNCA Vs Anjum Sajjad Gohar in against to complainant's irregular appointment on deputation as Director (Admin & Accounts). During pendency of that writ petition according to opponent the contract of complainant was about to expire on 31-10-2012 therefore it was decided by the division that in order to avoid any further litigation complainant be repatriated to her parent department. But this stand taken by opponent does not appeal to reason because even if it is taken that because due to end of her contract on 31-10-2012 decision of her repatriation was made then also the fact cannot be ignored that by the decision of Sub-Committee of Cabinet Division complainant was regularized on 29-11-2012 and office memorandum to that effect was issued on 22-01-2013 whereas letter for repatriation of Ministry of National Heritage and Integration was issued on 29-4-2013 much later to her regularization. However that is not the issue.

10. From perusal of record I found that point for consideration is that whether the Establishment Division directive as to her repatriation to her parent department was not in accordance to law and complainant was not bound to obey the same. No arguments have been placed by the complainant to this effect.

But her main insistence was that her repatriation to NCL is because of the managed act of Director (CPI) with JS (Admin). To prove this act she has referred reliving order of 29-4-2013 alleging that although the Establishment Division had issued the notification of her repatriation on 30-4-2013 which was received in Ministry of Heritage and Integration on 02-5-2013 but a day earlier to the issuance of notification of Establishment Division opponent had directed to complainant by letter dated 29-4-2013 to relinquish her charge which was a malafiedy act.

11. In reply to it opponent had referred the very letter of 29-4-2013 wherein with reference to a previous ministry's office memorandum issued by Ministry of Heritage and Integration issued on 15-4-2013 they have been reminded to repatriate and relive complainant immediately to join her parent department, as such there was no malafiedy on the part of opponent but the order was in compliance of the office memorandum issued on 29-4-2013 by Ministry of National Heritage and Integration which was subsequently followed on by Establishment Divisions on 30-4-2013.
12. In addition to that in order to show the reluctance of complainant to relive the charge opponent has referred an application moved by complainant on 29-4-2013 wherein she

has requested to complete her tenure upto 23-4-2015 in PNCA.

13. The whole case that has come out from the record is that it is not case of harassment as defined in Act 2010 but a struggle to continue her services in PNCA till the completion of her tenure as stated by complainant in her application moved on 29-4-2013. No satisfactory evidence has been placed by complainant to prove any act of harassment on the part of opponent. If an employee is asked to perform well or to complete the task of his job that can not be said to be an act of harassment but will be direction to an employee to fulfill the duties relating to her job and not otherwise.
14. In view of above I do not find any satisfactory ground of harassment as alleged by the complainant. Complaint stands dismissed.

OMBUDSMAN