

OFFICE OF THE OMBUDSMAN

Islamabad

FORM OF ORDER SHEET

Complaint No. 1(59)/2021-FOS(Reg)/Pesh

Serial No. of Order of Proceedings	Date of order of Proceedings	Order of other proceedings with Signature of Federal Ombudsman HAJRA SARWAR KHAN VS ATTA ULLAH & OTHERS
1	2	3
	02-03-2022	<p>Complaint No. <u>1(59)/2021-FOS(Reg)/Pesh</u></p> <p>This case passed through many ups and down before it reached to this forum for final adjudication. The parties to the case are employees of Commissionerate Afghan Refuges KP Peshawar. Ms. Hajra Sarwar (Complainant No. 1) works as Deputy Director Protection while Ms. Shehnaz Begum (Complainant No. 2) worked as senior Deputy Director in that organization. Atta Ullah (Accused No. 1) is Chief Finance officer while Wahid Khatak (Accused No. 2) is the Project Director.</p> <p>Ms. Hajra and Ms. Shahnaz Begum jointly filed a complaint against Atta Ullah and Wahid Khattak alleging that they were causing them the sexual harassment and on their refusal to bow down before their illicit demands, they were being victimized on one pretext or the other. Initially the complaint was landed at the office of learned Ombudsperson KPK for Protection against Harassment of Women at the Workplace KPK. Accused submitted their defense statements. Evidence of both the parties was recorded at that forum. The case was fixed for final arguments when a transfer application was filed at that forum with the prayer to send the case file to FOSPAH for disposal because the</p>

organization of Commissionerate Afghan Refugees fell in the federal departments. Learned Ombudsperson KP, thus, sent the case to this forum vide the order dated 04-10-2021.

Having been shifted to this forum, the case was argued on skype by both the sides.

I heard the arguments and perused the record.

While narrating different episodes of sexual harassment, the complainant No. 1 told that accused Atta Ullah asked her to come to his office all alone, not bringing any other colleague but this demand of the accused was rejected. Thereafter the accused No. 1 asked her not to come to his office along with Sifat Ullah Khan, Deputy Director Training and Protection (CAR). The complainant No. 1, however, went to the office of accused No. 1 in the company of Mr. Sifat Ullah Khan upon which the accused appreciated their work but simultaneously asked her to take care of him. The complainant got embarrassed and asked the accused to explain the meaning of taking care of him. He replied that he wanted her to come to his office alone where he would do every work for her. Accused No. 1, thereafter, started creating hurdles and made it clear to the complainant that he would be creating such hurdles unless she came all alone to his office and to obey his words. Accused No. 1 also stopped the process of the application of complainant No. 1 whereby she requested to accused No. 2 for fixing her official car which was then out of order. Accused No. 2 made it pre-requisite for the complainant to meet accused no. 1 in his office.

Complainant No. 2 narrated that she belonged to Shia community and the accused usually discriminated and harassed her at the workplace. She further alleged that accused No. 1 wanted her to bring to him female colleagues and in return he would look after her and would let to work free in the office environment. Complainant No. 2 also refused him due

to which accused No. 1 got offended and in retaliation took adverse action in the shape of her termination from service.

Denying the allegations of the complainants the accused described the complaint false and fabricated. Complainants recorded their evidence and also produced Muhammad Hamad, Mr. Khalid Rehman, Sifat Ullah Khan as their witnesses.

From the evidence led by the complainants the factum of sexual harassment at the hands of the accused stands duly proved. The witnesses produced by the complainants have corroborated the charge of the complainants. There is no such solid and concrete evidence on the part of the accused to suggest that the complainants filed their cases against them due to any previous enmity, grudge or animosity. In absence of the above factors it is not convincing to believe that the complainants could have filed false complaints against their male colleagues after putting their dignity and reputation at risk. It is a matter of common sense that no lady takes the risk of filing false complaints of sexual harassment against a male colleague in the organization because such a complaint in the long run is detrimental to her own modesty, integrity and reputation. It is on the record that the complainants also filed applications against the accused to Commissioner Afghan Refugees which made the accused offended to be reactionary against the complainants. As the Commissioner Afghan Refugees had close relations with the senior officers like accused he paid no attention to the complaints of the aggrieved ladies.

Needless to explain Commissioner Afghan Refugees is the head of the organization and in that capacity it was his duty to take all measures to maintain the office discipline and conducive environment for working women. He was also required to make temporary arrangements in the

office so that the complainants and the accused did not remain in the same place during the course of inquiry in the matter.

It is evident from the record of the case that statement recorded by the Complainants have not been subjected to cross examination by the accused party. It would mean that the veracity of the narration of the complainants has not been challenged by the opposite side. Being so the statements and evidence of the complainants would be deemed to have been accepted by the accused. This fact, in turn, strongly supports the charge of the complainants against the accused.

Putting all the evidence of the parties available on the file in juxtaposition, I found it safer to observe and hold that the harassment complaint of the complainants stands proved as against the accused who have been in dominant position to misuse their authority to exploit, comparatively, weaker and junior lady complainants. Thus in my considered view the accused are liable to be imposed upon the major penalty in terms of section 4(ii)(d) of the Act 2010 entailing dismissal from service.

While holding the accused guilty of sexual harassment of the Complainants at workplace I hereby impose upon them the penalty of dismissal from serviced under section 4(ii)(d) of the Protection against Harassment of Women at the Workplace Act, 2010, dismissing both of them from service forthwith.

Accused are also imposed upon the penalty of fine of Rs. 5 Lac each in terms of section 4(ii)(e) of the Act, 2010. This amount would be used as compensation for the Complainants.

The competent authority shall implement the orders within one week of receipt of the same under intimation to this forum.

		<p>It may be appropriate to mention here that the incumbent Commissioner Afghan Refugees has failed to perform his duty in accordance with the provisions of the Act 2010. He appears to have taken the matter casually rather non-seriously. For his above conduct the officer, deserves to be conveyed the displeasure of this forum with direction to constitute proper inquiry committee in the office to probe such like harassment cases. He is further directed to install CCTV cameras in the premises inside and outside to monitor the activities of the employees. Similarly the Commissioner concerned is directed to display the code of conduct of FOSPAH on conspicuous places of the secretariat so that every employee could go through the said code of conduct. Compliance to be reported to Registrar FOSPAH within fortnight.</p>
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