



FEDERAL OMBUDSMAN
For Protection against Harassment of Women at Workplace
Islamabad

J U D G M E N T

1. Complaint Number: 1(181) / 2015-FOS (Reg)
2. Date of Institution: 11-08-2015
3. Remand Order 17-08-2016
4. Date of Decision: 04-01-2017
5. Complainant: Mst. Humaira Nahid Pitafi
Vice President, Incharge Library
Planning and Research Department,
ZTBL Head office Zero Point
Islamabad
6. Opponents:
 - i. Syed Khurram AVT,
ZTBL Head Office, Islamabad
 - ii. Sher Afgan, AVP
ZTBL Head Office, Islamabad
 - iii. Khalique Imran, AVP
ZTBL Head Office, Islamabad
 - iv. Sohail Mansoor Aga, AVP
ZTBL Head Office Islamabad

Justice (R) Yasmin Abbasey,

Ombudsman:

Complaint No. 1(181)/ 2016-FOS.

1. Complainant Humaira Nahid serving as Vice President in ZTBL Islamabad also acting Library Incharge has filed this complaint against opponents that for last many months opponents along with other companions are harassing, humiliating and disturbing her with different tactics. Those harassment and illegal acts are being done under leadership of Rai Yaqoob and Ghazanfar Shah who helped opponents in doing of immoral acts with complainant. Complainant has moved different applications against opponents to bank authorities and Police authorities.
2. It is alleged that on 06-08-2015 at about 11:00 am opponent Sher Afgan AVP serving in same ZTBL entered in complainant's library room No. 1001 and when he saw that complainant is all alone in room he attempted to hold her and dragged through hairs with warning that today she will not be left. He also tried to outreached her modesty and in that attempt complainant's shirt was torn. Opponent Sher Afgan had twisted her hand so forcefully that one finger of her hand was injured and because of hit on shelf she also received injury on her forehead. In order to protect herself and her modesty she pushed him back and had raised cries after opening door of library. When persons of that floor gathered there, opponent Sher Afgan left place threatening her for dire consequences and also leveling immoral allegations against her. On regaining her senses she called police on 1 5 and intimate them about incident. As complainant had received physical injuries also, therefore police referred her for medical checkup.
3. As complainant is widow therefore taking benefit of it, employees of this organization used to harass and humiliate her by using unparliamentary language and leveling immoral allegations on her. They also harassed

complainant by writing different letters in immoral and unparliamentary language and then spread those letters in department, therefore prayed that action be taken against opponent and their leaders Rai Yaqoob and Ghazanfar Shah.

4. Opponent No. 1 Syed Khurram AVP in ZTBL Head Office Islamabad in his defense has stated that complainant is in habit of filing such like applications before different forums against different employees of bank just to harass, humiliate, pressurize and blackmail innocent persons. All those complaints during inquiry were proved false. Mr. Akram Haider VP who was appointed in one of those inquiries has refused to conduct inquiry proceedings because of objectionable attitude of complainant. Complainant has also moved similar complaint before ICI police which is under investigation. Complainant has relation with Zaka Ashraf, the then President of ZTBL and as this opponent had filed case against Zaka Ashraf and his front man, therefore this complaint is outcome of personal grudge of Zaka Ashraf to force him to withdraw suits and legal noticed filed against him. There are several reports of misbehavior of complainant with senior officers. This opponent is being targeted because he has close relation with Iqbal Khatak who has challenged appointment of Zaka Ashraf in Islamabad High Court. Criminal proceedings initiated against opponent were quashed by Islamabad High Court in writ petition No. 4908/2010. Complainant was appointed by Zaka Ashraf, without considering merits she was given out of term promotion and was allotted residence by demolishing bank dispensary which was meant for bank employees.
5. Opponent No. 2 Sher Afgan AVP in ZTBL in his defense has stated that complainant has no locus standi to file present complaint. This complaint has been filed with malicious intention on basis of institutional politics. Opponent No. 2 is innocent and denied all allegations leveled by complainant being false, frivolous and concocted one. Complainant is in habit of fling such like applications just to humiliate, harass and pressurize

innocent employees. Opponent No. 2 is serving as AVP in bank. Under his job description he has to arrange material for publication of monthly business supplement on regular basis. In that connection on 06-08-2015 he had gone to library to collect some material from newspapers to arrange publication of above referred supplement. As at that time there was no newspaper available on table of readers, therefore opponent N0. 2 asked from Mst. Naila, Assistant. She intimated that newspapers are on table of incharge Library. On seeing opponent No. 2 complainant started shouting and told her to get out of room alleging that opponent No. 2 is partner of her enemies. On reply of opponent No. 2 that it is public place and every employee has right to come in library and read newspapers / magazines. Complainant became angry and while shouting directed him to immediately leave library. Though it was insulting attitude, but however to avoid any unpleasant situation opponent No. 2 left library and entered in another room adjacent to library having No. 1002 to meet Sher Bahadur Vice President. Complainant also came in that room and started shouting on him violently and had also attacked on opponent No. 2 by throwing paper weight with full force. Opponent No. 2 received injury because of hit of paper weight on his head and blood started oozing. Opponent No. 2 reported to Executive of bank by making his personal appearance before him, who directed to report the matter to police. Opponent No. 2 got registered an FIR at police station Abpara against complainant. Complainant has prepared concocted story of attack by opponent on her. She herself torn her clothes and thereafter had filed false complaint at police station Abpara and has used influence for lodging of FIR against opponent No. 2. There is big contradiction in statement made by complainant before this forum and in applications moved at police station Abpara. Complaint is liable to be dismissed.

6. Opponent No. 3 Khalique Imran along with index has filed documents to prove contention raised by complainant as false and with malafied

intention.

7. Opponent No. 4 Syed Mansor Ali AVP has denied all allegations leveled by complainant against him and has stated that taking benefit of her relation with different authorities this baseless complaint has been filed by her just to put employees of ZTBL under pressure and blackmail them. It is stated that complainant in application moved to Chief Executive of bank has alleged that opponent No. 4 Syed Ghazanfar and Syed Khuram had got published objectionable pamphlet against her. Though till now opponent is not in knowledge of that pamphlet or of its contents, however when matter was brought before Chief Executive of bank just to satisfy complainant and in name of prestige of Quran he had taken an oath that he had never done such act of getting published objection posters against complainant. Thought at that time complainant seems to have been satisfied, but again after lapse of some time she has leveled allegations against Syed khuram and opponent No. 2 that they are harassing complainant under supervision of Ghazanfar Ali. Alleged pamphlet was never seen by any employee of organization and remain within hands of complainant which proved that allegations leveled by complainant were and are false. All allegations of harassment and humiliation by opponent and other opponents are false and frivolous. There is distance in between office of complainant and opponent No,4, therefore question of continuous harassment does not arise. Opponent No.4 had never sent any SMS to complainant. Complainant has psychological problem, because of that she is involve in such activities of maligning other persons. On 15-06-2015 during inquiry against Khaliq Imran complainant had attacked on opponent Khaliq Imran with slaps and shoes and had also damaged official articles and thereafter to justify her illegal act she herself had moved an application to DIG office Melody Islamabad on 26-09-2015. In that complaint, complainant has admitted her guilt but at the same time she also included names of Khaliq Imran, Sohail Mansoor Agha, Syed Khuram and Sher Afgan as accused, though all of three persons have no

concern with inquiry conducted on 15-06-2015. After that incident complainant started contacting Ghazanfar Ali which shows that complainant is working on some agenda and senior officers are backing her. Complaint is liable to be dismissed.

8. The instant petition was filed by complainant on 11-08-2005. During its first trial by order dated 02-11-2005 it was observed that as same issue which has been taken up by complainant in present complaint before FOS had been agitated by her in FIR No. 341/2015 dated 06-08-2015 which is prior in time to present complaint and as reported matter is subjudice before criminal court under that FIR, therefore in order to avoid any conflicting decision it would be deem proper that complainant should pursue her case registered under FIR 341/2015 and complaint was disposed of as filed.
9. Against this order of 02-11-2015 complainant approached President Secretariat with stance that civil and criminal proceedings of same subject matter can run together as said Act 2010 has penalties which are entirely different from punishment provided in PPC.
10. Matter was remanded to this FOS. In remand order of 17-08-2016 of President's Secretariat it has been observed that:

"It is well settled that departmental as well as court proceedings can be conducted separately. Therefore, the stance of the Federal Ombudsman for not proceedings in the matter due to FIR of the same incident is not tenable as both the proceedings can be carried out simultaneously".
11. In light of this observation again opportunity was provided to parties to produce evidence which was availed by them. After going through record and written arguments placed by both parties it is viewed that in whole proceedings main emphasis of complainant was on registration of FIR No. 258/2009 against opponents and their arrest in that matter without considering that very proceeding under FIR No. 258/2009 were disposed

of by order dated 15-09-2010 of judicial Magistrate First Class Islamabad produced as exhibit O/1. Although reference of complainant Mst. Humaira Nahid's forgiving to accused and of tendering apology by accused Syed Khurram Hussain is appearing therein, but no such statements as had been referred in order by either parties has been placed on record to support same. Even otherwise this reference is seems to be redundant in view of further observations of Judicial Magistrate that "it would be certainly no used to stretch further trial of case which will be waste of time because there is no chance of conviction of accused even though all remaining evidence is taken in case. Consequently accused mentioned above are acquitted under section 249-A CrPc".

12. This order of Judicial Magistrate has been further strengthen by Islamabad High Court in its judgment dated 22-04-2013 in writ petition No. 1089/2013 and W.P No. 4908/2010 whereby not only FIR No. 258/2009 was quashed, but in result thereof all disciplinary proceedings and subsequent order passed against opponent Muhammad Khalique Imran and Syed Khurram Hussain were set aside. In sequence thereof ZTBL also by office memorandum dated 30-05-2013 had withdrawn show cause notice dated 09-09-2009 issued to Khalique Imran. With lapse of about two years complainant come up with another FIR having No. 341/2015 lodged on 06-08-2015 alleging that for last many months Khalique Imran, Syed Khuram Hussain, Sher Afgan and Syed Mansoor Ali along with his different companions were harassing her through different modes. It is alleged that on 06-08-2015 when she was all alone in her office having No. 1001, the library, opponent Sher Afgan came there dragged her with hairs and hands, however she succeeded in escaping from place and raise commotion which attracted other employees of office. After gathering of people opponent Sher Afgan ran away from place with threats of killing her and dire consequences. It is an admitted position that matter under FIR 341/2015 is still pending before criminal court, therefore I was of the view that on same state of allegation matter cannot be

proceeded at two different forums. Furthermore it is also settle principle of law that case file prior in time needs to be disposed of at first instance. But anyhow under observation and direction of President Secretariat I proceeded with matter afresh, but I am not in agreement with instance of complainant that on same state of allegations matter can be proceeded at two different forums, because Article 13 of Constitution of Pakistan protects a person of having his / her prosecution twice for same offense. Beside this nature of proceeding under FIR No. 341/2015 under Section 354 and 506 PPC and punishment in case of proof are of different nature to the proceeding conducted before Federal Ombudsman. Maximum punishment under section 354 PPC and 506 is of two years imprisonment and in case of statement made by complainant in FIR is found to be false she / he shall be punish with imprisonment of either description for a term which may extend to seven years and shall also liable to fine. Whereas under Protection against Harassment of Women at Workplace Act 2010 punishments are to imposed as prescribed in Section 4, sub section 4 of Act 2010 and in case complaint is found to be false. It is left at discretion of Ombudsman to take appropriate action against complainant. Therefore I am of view that in terms of Article 13 of Constitution of Pakistan Section 354 and 506 PPC read with 193 PPC and Section 4 Sub clause 4 under Act of 2010 two trials cannot be tried on same nature of offense.

13. Coming up to merits of case after perusal of record it is observed that to have benefits in her favor complainant has adopted all legal and illegal methods and has also become tool for others just for gaining benefit and her out of tern promotion. It is with this intent one after another she moved applications against opponents wherein mostly in her first attempt she was able to cause damage to opponents as has been explained by them in their statements and also appear from record, but finally she failed to prove allegation leveled by her against them. Aggressive attitude of complainant further reflects from inquiry report dated 15-06-2015 submitted by inquiry officer Muhammad Akram Haider Khan in complaint

lodged by complainant against opponent Khalique Imran, wherein it is observed by inquiry officer that

“Complainant just on start of inquiry proceeding without any provocation started abusing accused. She was requested to be calm and observed office decorum but she gave no ear on our request and continued to abuse the accused deafeningly. Despite my repeated requests to refrain from such maltreatment with accused, she started beating accused with her shoe (sandal) and dragged him from his collar, smashing his eye glasses. She further created great and much uncalled for nuisance and fuss in the office and was totally out of control. The two witnesses from her side tried their best to control her but in vain”.

14. With this observation inquiry officer had made an excuse to continue inquiry proceedings and requested to absolve him from duty of inquiry officer in that case.
15. Though at this stage I do not want to go in full detail of the documents placed on record as matter is subjudice before criminal court, but still want to make reference of complaint filed by Sher Afgan at PS Aabpara Islamabad on 06-08-2015 that on said day when he went in library for reading newspaper complainant Humaira Nahid Pitafi restrained him to come in library. According to opponent in order to avoid any conflict he left library and had gone to one of his friend in room No. 1002. Complainant also came there and hit on his head with paper weight. Opponent Sher Afgan received serious injuries. Blood started oozing from his head. According to him he first went to senior officer to report and on his direction he reported matter under section 337(a) PPC. To support his version medical certificate has been attached. According to opponent FIR No. 341/2015 is counter step of complainant to his report made on 06-08-2015 because his report was lodged at 11:15 am, whereas complainant has lodged FIR though on same day, but at 12:15 noon, after an hour.

16. To show conduct of complainant opponent have also produced record of different institutions, where she served and is serving. To prove that complainant is in habit of making false statement just to gain her objects and benefits. I do not want to discuss this aspect of complainant's record in present proceedings, but I am constrained to refer application moved by Principal of Government Degree College (W) Dhok Elahi Bakhsh Rawalpindi to District Education Officer Rawalpindi alleging that before joining another institution complainant neither has submitted any resignation letter nor is in touch with college since 31-01-2009, however because of departmental permission sent by complainant she has been relieved from college from 06-06-2009. She has not submitted any proper relieving charge report. She has overdrawn one month salary i.e. Feb-2009 when she had no leave with pay in her leave account.
17. Twisting conduct of complainant further appears when in her complaint before this forum on 11-08-2015 she has alleged allegations against opponents and particularly Sher Afgan and in concluding para it is stated by him that all these opponents have support of Rai Yaqoob, Ghazanfar Shah and Ch. Amanullah. Exact words as stated by complainant reads as under:

اگر مستقبل قریب یا بعید میں مجھے کسی قسم کا کوئی بھی نقصان ہوا یا میرے بچوں کو کوئی تکلیف یا نقصان ہوا تو اسکی ذمہ داری بنک انتظامیہ اور ان بد معاشوں اور ان کے سرپرستوں رائے یعقوب اور غضنفر زشاہ اور ان سب کے سرپرست شیخ امان اللہ پر ہوگی

But in her subsequent statement moved on 20-10-2015 she has withdrawn her complaint against Rai Yaqoob, Ghazanfar Shah and Sheikh Amanullah. These very persons have been produced by complainant as her witness, but nothing incriminatory, particularly to incident alleged in FIR No. 314/2015 and in her present complaint has been supported by them. On contrary affidavit of Syed Ghazanfar Ali Shah filed as complainant's witness at Page 215-217 of record proves the conduct of complainant. It is also noteworthy that this statement of Syed

Ghazanfar Shah has not been contradicted by complainant at any stage during proceeding.

18. Upshot of above discussion is that except complainant herself no satisfactory evidence has been placed on record to support allegations leveled by her in present complaint against opponent and particularly Sher Afgan. Whereas opponents have placed number of documents to shows conduct of complainant that how to fulfill her desire, she played with the employees of ZTBL.
19. Complaint of complainant is hereby dismissed with cost of Rs One Lac payable in equal share to opponents.
20. Issue letter to management of ZTBL to implement the direction of payment of cost to opponents after recovery of same from complainant and report to this office of FOS within 15 days.
21. Announced in open court.

JUSTICE (R) YASMIN ABBASEY
Federal Ombudsman