



FEDERAL OMBUDSMAN
For Protection against Harassment of Women at Workplace
Islamabad

J U D G M E N T

1. Appeal Number: FOH-HQR/0000512/18
2. Date of Institution: 12-09-2018
3. Date of Decision: 05-11-2018
4. Appellant: Mr. Khawar Rasheed
Steno Typist
Ministry of Industries and Production
Islamabad
- Through:** Mr. Imran Feroz Malik
Advocate High Court
5. Respondent: M/o. Industries & Productions
Islamabad

KASHMALA TARIQ**Federal Ombudsman:****Appeal No. FOH-HQR/0000512/18**

1. Through this order, I intend to decide upon Appeal no. FOH-HQR/0000512/18 filed by Khawar Rasheed (“Appellant”), Steno-typist BPS-14, Ministry of Industries and Production against order dated 15-08-2010 (“Impugned order”). Para 4 of the impugned order is reproduced here below:

“In view of above, I hereby approve the recommendations made by the inquiry committee under Section 4(3)(f) read with Section 4(4)(ii)(c) of the Protection against Harassment of Women at Workplace Act,, 2010 and in exercise of the powers delegated under Section 4(5) of the act ibid impose the major penalty of removal from service on Mr. Khawar Rasheed, Steno typist with immediate effect”.

2. Briefly, the facts are that Salma Ramzan (“complainant”) is also working as a Steno typist in Ministry of Industries and Production (“MoIP”), Islamabad, on 03.05.18, she filed a complaint to Deputy Secretary (Admn) MoIP wherein she stated that she gave her number to the appellant who forwarded her number to Kamran, Dispatch Rider (DR) from Ministry of Communications. She alleged that the appellant made Kamran DR sent her vulgar messages and also spread rumours of relationship between the complainant and himself at the workplace.
3. On 09-05-2018 on the basis of complaint by the complainant, a memorandum was sent to appellant to clear his position. Inquiry was initiated and both parties were appeared before inquiry committee and appellant submitted his reply. Whereas Kamran DR ‘confessed’ that the appellant gave him the complainant’s number and forced him to call and send messages to the complainant. Kamran DR also apologized to the complainant. Another complaint of same nature by one Neelum Razzak working as an Assistant in MoIP against the appellant was raised by one of the committee members, but the same was not brought in writing or on record.
4. Inquiry committee was constituted in the Ministry of Industries and Production with following composition:
 - i. Mr. Iftikhar Ali Shallwani, Additional Secretary-II, Chairman
 - ii. Mr. Sikandar Masood, Deputy Secretary (Admn), Member

- iii. Mirza Maqbool-ur-Rehman, Section Officer (Admn-I), Member
- iv. Ms. Maryam Aslam, Female Deputy Secretary / Section Officer / Superintendent, Female Member
- v. Ms. Shehla Kousar, Senior Superintendent, APS, Member

Conclusion and recommendation of inquiry committee is reproduced below:

“After thorough deliberations on the issue and proceedings as narrated above, the committee reached the following conclusions.

- *Mr. Khawar has habit of harassing women at the workplace. As two cases of Miss Neelum and Miss Salma have been reported against him.*
- *Mr. Khawar has reputation of creating misunderstanding between people. It has been well established by complaint filed by the Naib Qasid of DS (IF).*
- *Mr. Khawar has created hostile environment for women at the Ministry by spreading abusive stories against them.*
- *The conduct of Mr. Khawar has put the Ministry in disrepute. Consequently, MoIP is not considered as safe place for working women.*
- *Mr. Khawar gave contact number of Miss Salma to Mr. Kamran, DR, Ministry of Communications and asked him to call her and send her unethical messages. Thus, he has harassed Miss Salma by creating adverse working environment to her.*
- *Further, retention of Mr. Khawar in service is not in the public interest.*

RECOMMENDATION:

In pursuance of para 4 of Harassment Act sub para ii, Harassments Committee of Ministry of Industries and Production recommends that Mr. Khawar may be awarded the major penalty of “Removal from Service” for harassing Miss Salma.”

Subsequent to the recommendations, the appellant was communicated the impugned order dated 15-08-2018 of his removal from service.

5. Arguments heard. Perusal of the record shows that the main allegation against the appellant is that he forwarded the complainant’s number to Kamran DR of Ministry of Communication and forced Kamran to harass the complainant from his number. Moreover, she alleged that the appellant has spread rumours of personal relationship between the complainant and himself in the workplace.
6. The inquiry committee exonerated Kamran DR by making him an approver subsequent to

his apology to the complainant. It is pertinent to mention that there is no provision of “confession” or as followed, “approver” in the Protection Against Harassment of Women At the Workplace Act 2010 (“Act of 2010”). Admittedly, the number was given to the appellant herself as both were colleagues and the messages and calls were sent from the phone number of Kamran DR. Hence, the inquiry committee is not justified in exonerating Kamran DR in such a manner.

7. The inquiry report mentions another complaint against the appellant by one Neelum Razzak, but there is nothing on record to assess or examine the same. Therefore, for the purposes of Act of 2010 and the given procedure under the *ibid* Act, the allegation made by Neelum Razzak cannot be considered as a substantial piece of evidence. The report also states that the complainant and Kamran DR did not provide any record of messages or calls as the complainant deactivated her sim and Kamran DR deleted his record. Another crucial aspect overlooked by the inquiry committee is that they did not provide any opportunity of cross examination between the parties and witness (es), as required in the Act of 2010. Lastly, the inquiry committee examined the allegations of spreading rumors within the organization but as mentioned in the report itself, no statements of staff or officers were recorded to this extent.
8. For the aforementioned reasons, this office disagrees with the findings of the inquiry committee. However, there is no doubt that mischief has been caused by the appellant and Kamran DR to the effect that the office environment became compromised. This office does not wish to dwell into whether Kamran DR was ‘forced’ by the appellant, as he is an adult and the allegation does not attract a reasonable prudent mind. Similarly, exchange of phone numbers is common between colleagues and the appellant should have been careful and responsible enough not to forward or float complainant’s number in such a manner.
9. Therefore, in view of above mentioned discussion, impugned order dated 15-08-2018 is hereby set-aside. Minor penalty of stoppage of one month salary under Section 4(i)(c) is imposed on appellant Mr. Khawar Rasheed and Mr. Kamran, Dispatch Rider (DR).
10. Secretary Ministry of Industries and Production and Secretary, Ministry of Communications are hereby directed to implement the decision in letter and spirit, and report to this office within 15 days of receipt of this order.

KASHMALA TARIQ
Federal Ombudsman