



FEDERAL OMBUDSMAN
For Protection against Harassment of Women at Workplace
Islamabad

J U D G M E N T

1. Complaint Number: 1(35)/2012-FOS
2. Date of Institution: 14-06-2012
3. Date of Decision: 31-05-2013
4. Complainant: Ms. Maleeha Baig
House No.381, St. 72, F-11/1
Islamabad.
5. Respondent: Mr. Muhammad Talib Dogar
DG (Services), PTA, Islamabad.

Yasmin Abbasey,

Ombudsman:

Complaint No. 1(35)/ 2012-FOS.

1. This complaint has been filed by Maleeha Baig against opponent Muhammad Talib Dogar Director General (Service Division) Pakistan Telecommunication Authority (PTA). It is stated by complainant that she joined PTA as Management Trainee and thereafter on the offer of the organization she joined the post of Deputy Director on 21-6-2010. On 03-5-2011 she was transferred to Numbering Directorate. She took over the charge of the post on 09-5-2011 from Assistant Director numbering, prior to her joining as per opinion of Inter Division Task Delegation the work in Numbering Directorate being of tactical nature cannot be handled by single person. Muhammad Ashraf AD (numbering) alongwith two Assistant and other employees of the organization viz Sadaf Ahmed, Waqar Ahmed and Kashif were sharing the burden which has resulted in reduction of work load. It is alleged that the opponent who was head of Numbering Division, soon after joining of complainant as Deputy Director because of misdoubts towards her had made inquires from Muhammad Saleem, DG Commercial Affairs in respect of the complainant.
2. It is alleged that thereafter off and on opponent used sub standard language towards complainant and to put her in unnecessary trouble opponent transferred the assistants attached with the complainant and tried to create unsuitable environment for the complainant by

putting whole burden of work of the office on her shoulder. According to complainant, opponent had adopted different mode to harass her. It is alleged that one day opponent became utterly impatient and persuaded complainant to stay late in the office on the pretext of attending some meeting of the Authority and DG. On the poinations of complainant that all other officers had left the premises he still persuaded her to stay there and offered her to give a drop. On the refusal of complainant and expressing that she would go at her own opponent called back the driver immediately.

3. Complainant in her different paras by quoting sentences in vernacular language has expressed that opponent was a constant cause of harassment to her and he deliberately withdrawn the assistant of her office and tried to pressurize her to be in touch with him on any issue. It is further alleged by complainant that he by using the words as quoted in different paras of this complaint tried to offer request which were of the nature of unwelcome sexual advances to her.
4. Therefore strict action be taken against opponent for harassing the complainant for gaining sexual favour from her from the date of joining of in PTA till her transfer to Enforcement Division.
5. Opponent in his defence pleaded that although complainant was appointed in Commercial Affair Division of PTA but as her performance was not satisfactory therefore she was transferred to Revenue Assurance Division and then to Service Division but in all the sections as complainant could not perform well therefore she

was terminated on 21-5-2012 with 30 days gross pay in lieu of notice. It is alleged by opponent that after her termination on 21-5-2012 complainant moved false and frivolous application before SHO Police Station Secretariat Islamabad alleging of her wrongfull confinement and theft against officials of PTA namely AD Security Zahid Mumtaz Malik, Assistant Director and Director Administration Raja Khalid, Asif Saeed and Sharjeel Deputy Director ICT . However on 23-5-2012 the matter was compromise. It is thereafter on 26-5-2012 a second application was moved against opponent with a similar allegation of theft and wrongful confinement. The matter was reinvestigated by SSP operation and ASP and finally it was reported by ASP that:

“It has transpired that Mst. Maleeha Baig, ex-Deputy Director of PTA has submitted an application on frustrating against officials of PTA who have terminated her from the service. No such care of illegal detention, harassment and stealing of data from computer was found.”

6. Complainant has also filed a writ petition against her termination before Islamabad High Court which was dismissed. Against that dismissal an appeal was filed on 26-5-2012 before the same court which is still pending. In that writ petition and appeal complainant has challenged only her termination, and facts relating to sexual harassment as pleaded now were not part of those petition. However in appeal FAO No.24/2012 complainant's termination order of

21-5-2012 was suspended and at present, she is posted in Enforcement Division of PTA. The instant complainant has been filed because of her termination and is false frivolous and be dismissed as not maintainable.

7. Under the law complainant was first required to approach to the inquiry committee of PTA but she failed to do so. During her posting in Service Division, Numbering and Type Allocation Directorate complainant never complaint against over burden of work, 02 management trainee officer and 3 staff members were provided to assist her but inspite of that she could not perform well. That is why her contract was terminated. It is denied that opponent ever used ambiguous and abusive language or ever made any attempts for sexual favour or harass her.
8. Opponent is not the immediate officer of the complainant. He is the head of Service Division. There was no occasion that opponent passed any comments about the officials of different division. However if any remarks passed by Muhammad Saleem DG Commercial Affairs, then the complainant never took that matter before inquiry committee while she was working in Commercial Affairs Division. Immediate supervisory officer of complainant was Sardar Mehmood Gul Director Numbering and Type Approval Service Division. Opponent never met the complainant on 04-5-2011 as alleged nor use any harsh language. Opponent sits in a glass partition and there is no sound proof. There 5-6 person including personal assistant are working, therefore any unwelcome

favour or use of abusive language is totally denied. It is also denied that opponent approach complainant in any inappropriate manner and offered her for lunch after her working in Service Division of PTA.

9. It is stated that transfer of complainant to Numbering Directorate of Service Division from Revenue Assurance Division was by Chairman PTA and per hierarchy of the management complainant on 04-5-2011 gave her joining to Sardar Mehmood Gul Director Numbering and Type Approval. It is denied that 04-5-2011 opponent ever met with complainant and stared at her with ill will. There are about 40 persons working on the first floor where Service Division is located and all the cabins have a glass partition therefore every thing happening in any cabin is visible. Opponent never called any female employee in his office without any official purpose. Waqas Ahmed Khan senior executive secretary was especially assigned by Sardar Mehmood Gul Director Numbering to the complainant to assist her in her work. It is denied that opponent ever asked complainant or any other employee to sit late in her office beyond official time. It is also denied that opponent ever offered to complainant to give her a drop. After relinquishment of charge by Waqas Ahmed Khan in Numbering and Type Allocation Directorate 04 other officials were assisting the complainant. Further the employee replaced on the seat of Waqas Ahmed Khan also joined the Directorate in December 2011.

10. Complainant never reported direct to the opponent no there were any such instructions. The work of the complainant was never satisfactory and in order to cover her poor performance she has leveled these baseless allegations. In her application dated 27-12-2011 move to chairman PTA she has not taken the ground of harassment as alleged. Opponent has no role in the transfer of complainant but as the complainant was not found suitable on the post therefore the competent authority has terminated her.
11. All the allegations made in different paras of complainant as to harassment by shifting all the work load of the division on shoulders of complainant is denied. It is also denied that opponent ever offered complainant to share with him in official and personal matter. It is denied that opponent ever used harsh and derogatory language finding no positive response from complainant. Complaint is false and frivolous and be dismissed.
12. Heard learned counsel for the parties and peruse the record. As per complainant's statement during her engagement in PTA as management trainee on 21-6-2010 she was offered the post of Deputy Director which was accepted by her and in continuation of her job on 03-5-2011 she was transferred to Numbering Directorate headed by opponent Muhammad Talib Dogar. On joining of the post it was observed by the complainant that certain financial work as specified in para 4 of the complaint were not carried out from the inception of the introduction of "Number Allocation and Administration Regulation 2005" therefore it is not possible to

handle that work load by single person as such she asked for her assistant as previously it was shared by number of officers detailed in para 5 and 6 of the complaint. Therefore on 20-01-2012 an email was sent by Sardar Mehmood Gul Director Numbering and Type Approval to opponent wherein he had made a request on behalf of complainant, to equipped Finance Section with appropriate support staff having finance background on immediate basis. It was further clarified in this very email that although three management trainees were working but out of them two were engineer where is one assistant Ms. Asifa recently posted in the Division has no finance background. Learned counsel had also referred an email sent by complainant to Sardar Mehmood Gul for having proper staff with finance background otherwise she apprehended that there might occur delay in dispensation of duty of Financial Section and the under signed would not be responsible for that.

13. In spite of all these correspondence by Sardar Mehmood Gul and the complainant, it is pointed out by complainant's counsel that in a meeting held on 16-11-2012, on the request of opponent the authority directed that all task previously handled by Waqas Ahmed Assistant Director (Finance) will continue to be handled by Deputy Director Numbering Finance ignoring the fact that while Waqas Ahmed Khan was working in Numbering Division admittedly he had a good team with him with qualification required for the Division, which was subsequently withdrawn. It is further observed in para 9 of the minutes of this very meeting that the report of the task under taken / completed by her be prepared by DG Services

and provided to Chairman in every fortnightly report. Although opponent in para 13 and 28 of his defence as well as in his cross examination has denied that he was the immediate head of complainant and she had to report all her work to the opponent and that contents of para 9 of Ext D-11 are not correct but still it is a matter of record that this minutes of meeting circulated on 22-11-2011 till the cross examination of opponent on 29-3-2013 were never tried to be corrected.

14. Anyhow even if for the sake of argument this statement of opponent is taken as correct than no reason has been assigned by the opponent that if he was not her immediate head and the compliant had not to report him then why opponent was watching the performance and attendance of complainant as seem in email sent to her on 01-9-2011 and reply given by complainant on the very date produce as Ext. D-2. It is also not understandable that when on the note of complainant for providing / sanctioning immediate posting of suitable finance staff for smooth working of Financial Section of Service Division was approved by the chairman on 22-11-2011 which previously had support of the opponent on 14-10-2011, why all of his sudden he change his opinion in a meeting held on 16-11-2011. it is with this background it is alleged by complainant that as opponent was not happy because of her transfer in Numbering Directorate of Service Division therefore he often tired to create hostile environment for the complainant by expressing different remarks to her and forcing her to work in the office in

isolation with no help of any other person except himself.

15. According to complainant she filed a complaint against the indecent and ill manner behaviour of opponent to the competent authorities of PTA on 27-12-2011, but instead of examining the aspects of threat and harassment and creating hostile environment for the complainant by the opponent it appears that the inquiry committee had only examined the performance of complainant in discharging her duties and has recommended strict warning for
 - i) Deficiency for not providing the required expertise in her related field i.e “Finance” to Service Division.
 - ii) Inefficiency i.e. habitual late coming and absence
 - iii) Non compliance to the instruction of her senior
 - b) Mst. Maleeha Baig is a financial expert, therefore, she must be posted to finance division where she will be able to enhance her financial skill.
16. From above it appears that the inquiry committee constituted had not touched the issue of harassment as alleged by complainant on the part of opponent who have created such environment in the office which was not supportive to her to perform well. Learned counsel for opponent referring to “sayings” of the opponent as quoted in the complaint and in her affidavit in evidence argued that they are not of sexual nature nor opponent ever created such environments at workplace of complainant which was a constant

threat or harassment of sexual nature to her. He further argued that the issue of harassment as alleged in the complaint and deposed in her affidavit in evidence, if there would had any truth therein then she must have pleaded the same also in her writ petition No. 1486/2012 filed in Islamabad High Court or in appeal No. 24/2012 filed against dismissal of writ petition on 22-5-2012 but these arguments advanced by the learned counsel do not seem to be correct as in para No.8 & 10, of Writ Petition No. 1486/2012 she had made a reference of the complaint made by her to Chairman PTA will all details of the “saying” of opponent and environment created by him to put the complainant in pressure have been mentioned. To negate the allegations of complainant learned counsel for opponent has referred the statement of Sardar Mehmood Gul before the inquiry committee wherein he has stated that Mst. Maleeha DD (Finance) working with this division has not sufficient experience of handling financial matter on an independent seat, but in his subsequent statement he clarified that from May 2012 till mid of October 2011 she was directly reporting to DG Services but after mid of October 2011 she reported to him. With regard to her performance he has stated that she has adequate professional knowledge of financial matter, however needs to be more organized.

17. This contradiction in statement of Sardar Mehmood Gul Director Numbering and Type Approval seems to have been more clarified in the note in para 27 of note sheet dated 05-01-2012 wherein it is observed by the reporting officer that;

“DD Finance has now attained working knowledge of Numbering Directorate, however with no financial human resource it becoming extremely difficult day by day to handle financial matters, which if not address right now will increase financial irregularities and would invite more audit objections and difficulties for PTA”.

These remarks of AD (N & TA) further supports the voice raise by complainant as to the insufficient human resources with her which was negatively taken against her, in the inquiry committee constituted in the matter.

18. The questions as raised by the opponent that complainant has raised the issue of sexual harassment against him in order to hide her bad performance does not find sufficient from the record because Performance Appraisal Report of complainant from May 2011 to December 2011 wherein her immediate reporting officer Sardar Mehmood gul has given her good report with the comments that:

“She has gained adequate knowledge of rules and regulations concerning Numbering Issues which she can apply confidently. She possesses good knowledge of the financial matters. She held independent seat of DD (F&N) single handedly”.

But it seems that the same grudge as highlighted by complainant has been put down by opponent in this very report as countersigning

officer marking that;

“she is not able to clear the work assigned to her in time. She issued frequently demand note to clients. She also did not able to clear the balance with finance division therefore the financial work suffered badly in service division.”

It is pointed out by learned counsel for complainant that apart from this the conduct, opponent can be assessed from the fact that inspite of giving good performance report by immediate reporting officer Sardar Mehmood Gul up to December 2011 and good performance report made by AD (N&TA) again in the note portion in the para 30 of note sheet produce as Ext. D-6 on 06-01-2012 opponent had tried to create an obstacle for having financial support as demanded on 05-01-2011 and inspite of the answers of the queries made by him in para 30 in the subsequent paras the file was not moved forward by opponent DG services before the competent authority as these paras of Ext D-6 were highlighting the good performance of complainant and this all was done because she refused to accept the unfavorable demands of opponent. In the contrary learned counsel of opponent has referred the statement of Sadaf Ahmed, Asifa Javed, Waqas Ahmed to prove that the allegations of sexual harassment as alleged by complainant are false and frivolous.

19. I have gone through the statements of all the witnesses referred but none of them have deposed a single word on this particular issue nor any question was put to them by the inquiry committee in spite of the fact that specific allegations as to the behaviour and of sexual harassment were alleged by complainant against opponent. Except Asifa Javed who has shown the behaviour of complainant as very rude and harsh towards her, has stated that because of her attitude her office work was delayed but rest two other witnesses, i.e. Waqas Ahmed Khan and Sadaf Ahmed on the contrary have supported the case of complainant that because of inadequate human resources and expertise on financial side, Service Division are facing problems as officers posted in Service Division on financial side have engineering / technical background which is not suitable to the finance side of the Service Division. Although in answer to question No.22 put to opponent in the inquiry committee he has stated that one AD, Mst. Sadaf Ahmed and three management trainee and one office secretary were provided to the complainant, but this is the same staff which have been highlighted by Mst. Sadaf Ahmed and Waqas Ahmed having no expertise in financial matters therefore even if it is taken that some employees were provided to complainant or were with her does not seem to be proper because if they do not possess the qualification required for particular division their existence in that division would be of no use and will be just to fill in the gap with incompetent person.

20. It is argued by learned counsel for opponent that although there were some administrative disputes in between complainant and opponent but those administrative disputes cannot be turned into sexual harassment, in support of his argument he has referred AIR 1997 Supreme Court page 3011 wherein the term sexual harassment has been defined and some guidelines have been given to protect fundamental right of human being to work with dignity, honour and peace.
21. It is not debatable that right to life means live with dignity, and these fundamental rights have also been protected by Article 9 and 14 of the Constitution of Pakistan. The object of enactment of Act IV of 2010 was also with same intent to provide a healthy and protected environment to the persons working at workplace so that they should not be harassed, ridicule by the employers as defined in section 2 (g) of Act IV of 2010. The term harassment as defined in the Act can not be examined in isolation but the other aspects of creating and intimidating, hostile or offensive work environment which leads to the sexual request or sexual favour also needs to be examined. Gender discrimination is a pervasive evil that potentially confronts women who enter in any job either in public or private sector. The element which poisoned the workplace by creating hostile or offensive work environment even unrelated to sexual desire are not tolerate. If an employer is engaged in a pattern of harassment which create a hostile work environment for the complainant as defined in Section 2 (c) of Act IV of 2010, the cause falls under the definition of 'Harassment', because the term used as

“causing interference with work performance” or “creating an intimidating, hostile or offensive work environment” have to be read separately and not in conjunction to each other as the creation of hostile work environment by an employer has a significant determination impact on protected term of employment.

22. It is golden rule of law of interpretation that in case of having more than one meaning of “word” the judge can choose the preferred meaning to provide justice to the parties.
23. In such circumstances the termination of contract of complainant, on the recommendation of inquiry committee which has not touched the issues as raised by the complainant and without examining the conduct of opponent and disciplinary issues as alleged against the complainant, is not just and proper.
24. In view of above discussion I reached to the conclusion that although opponent has denied the charge of harassment as leveled by complainant against him but record as produce show that from the very beginning of joining of complainant in Directorate Finance of Service Division opponent was not pleased to her posting.
25. The continuous remarks of opponent in note portion and in ACR with reference to complaint in comparison to other officers of PTA produced on record are sufficient material to highlight the mind reading of a person, even if the “saying” of opponent as quoted by complainant are overlooked.

26. Complainant has produced sufficient material on record to prove that opponent had create such environment which was not comfortable to her and in course of taking advantage of the environment design he attempted to place his evil demands and refusal of them has irritated opponent resulting setting up place for her termination.
27. In view of above I hereby recommend that;
- i) The termination order dated 21-05-2015 of complainant be withdrawn and;
 - ii) The opponent be panelized by withholding his increment for a period of two years if he is a government employee, if he is on contract then an amount of equivalent to two increments be deducted from his salary and be paid to complainant as compensation.
28. Order accordingly. Compliance report be sent to office within a period of 15-days.

YASMIN ABBASEY
Ombudsman