



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

**J U D G M E N T**

1. Complaint Number: 1(289) / 2016-FOS (Reg)
2. Date of Institution: 23-09-2016
3. Date of Decision: 21-12-2016
4. Complainant: Mst. Malika Qadus  
Superintendent (BE)  
Alternative Energy Development Board  
2<sup>nd</sup> Floor, OPF Building,  
Sector G-5/2, Islamabad
5. Opponent: Muhammad Bilal  
Deputy Director (North / Admn)  
Alternative Energy Development Board  
2<sup>nd</sup> Floor, OPF Building,  
Sector G-5/2, Islamabad

**Justice (R) Yasmin Abbasey,**

**Ombudsman:**

**Complaint No. 1(289)/ 2016-FOS.**

1. Complainant serving as Superintendent (B.E) in Alternative Energy Development Board (AEDB) under Ministry of Water and Power has filed this complainant against opponent Deputy Director, in very institution, that in correspondence file of 16-06-2016 produced as exhibit C/1 opponent has used highly disrespectful and humiliating words against complainant that "She is found in having less attraction towards official duty and used to involve in unethical acts like making false cases and fabricated complaints creating problems during entire fiscal year". It is alleged that such noting in official correspondence establishes beyond any doubt that opponent is continuously working on agenda of malafied design with ulterior motive of his own to defame and scandalized complainant. With this intent he has issued baseless warning letter to complainant to improve her performance and incorrect report has been placed by him about complainant's performance which is absolutely false, if analyzed in light of her credential report for last 4 to 5 years. With this baseless remarks opponent has tried to put undue influence on her to live peacefully and to pursue her cases before courts. Opponent used to write fake letter on her behalf in court proceedings.
2. His defamatory remarks has injured right of life of complainant and has lowered her in eyes of others. Against this defamatory language complainant has written a letter to opponent on 27-07-2016. Copy of that letter was also dispatched to authorities of CEO AEDB with request to provide protection by initiating disciplinary proceedings against opponent, but no response were given on her request by authorities of CEO AEDB nor on her presentation directly made on 09-08-2016 to CEO. Therefore present complaint has been filed before this forum.
3. Opponent in his defense has stated that subject case is a corollary of case No. 1(188)/2015-FOS filed by Mst. Malika Qudus, the complainant

against Muhamamd Asghar, DD HR of AEDB. In that matter opponent appeared as departmental representative on behalf of CEO of AEDB. As counter blast to his appearance in above referred case unnecessarily this complaint has been filed by complainant against him. An FIR was also got lodged by complainant against opponent and one Muhamamd Asghar alleging that they tried to withdraw previous complaint having No. 1(188)/2015-FOS. Malafied act of complainant reflects from bail order passed by Additional District and Session Judge in favor of opponent on 08-03-2016. With malafied intention and to defame and malign opponent this complaint has been filed by complainant. Complainant has not approached this forum with clean hands. Position of opponent in office is not of official decision maker. Only portion of note has been attached without complete correspondence. With malafied intention complete correspondence has not been filed by complainant. Correspondence attached by complainant is classified and confidential in nature and is not allowed to have any access or to share with any other employee. Using classified and confidential correspondence is an act of misconduct and against official decorum. Using of word unethical was not intended to malign or character assassination of complainant, but was used in context of her efficiency and discipline. Above complaint does not come within purview of harassment. Whole act of complainant is because of grudge against opponent as he had appeared in previous complaint of complainant on behalf of CEO. By filing this complaint complainant is trying to harass other employees of AEDB for her ulterior motive. Complaint is liable to be dismissed.

4. In support of their pleadings they produced verbal evidence as well as documentary evidence.
5. Record shows that even before present litigation there was hot atmosphere in between management of AEDB and complainant because of service matter. In those circumstances previous complaint was filed by complainant against CEO and Muhammad Asghar Dy. Director HR of AEDB, Islamabad under complaint No.1(188)/2015-FOS(Reg). That

complaint was disposed of on 28-10-2015 in terms that management of AEDB was directed that case of both complainants for their up gradation be considered in light of office memorandum dated 23-09-2014 issued by Finance Division without taking any adverse action against them. Appeal was preferred against this judgment of FOS to President Secretariat. Although representation filed by AEDB was allowed by President Secretariat but almost the same conclusion was drawn by President's Secretariat as that of Federal Ombudsman and agency was directed to disposed of matter of up gradation of Superintendents (complainants in that case) as per rules / law within period of 15 days from receipt of copy of President's order. It is thereafter this present complaint has been filed by complainant Mst. Malika Qudus on 23-09-2016 against another employee of AEDB i.e. Muhammad Bilal Deputy Director (North Admn) alleging that in corresponding file of grant of Honorarium opponent has used defamatory language / remarks with baseless ground against complainant. That correspondence file has been placed by complainant at Page 6-7 of file which reads as under:

"Consequent upon the termination of Ms. Malika Qudus, Suptd AEDB due to her poor performance, and conduct her case is pending before the Honorable Islamabad High Court. She if found in having less attention towards official duties and used to involve in unethical acts like making false cases and fabricated complaints and creating problems during entire fiscal year".

6. Because of using of words unethical like making false cases and fabricated complaints by opponent in against to complainant she had issued notice to opponent on 27-07-2016, whereby opponent was directed to present cogent, relevant, admissible and non-hearsay evidence on alleged allegation establishing the veracity if any, of the allegation made by opponent. One another application was also moved by complainant on 09-08-2016 to Chief Executive Officer of that organization for taking action against opponent because of words used by him in above office correspondence of 16-06-2016, but according to complainant instead of

probing into the matter of using defamatory words pointed out by complainant an explanation letter was issued to complainant on 10-08-2016 by Assistant Director HR that as to why she has directly issued notice to opponent through her legal counsel without bringing the matter into the prior notice of the competent authority, which according to the administration of AEDB was violation of SI No. 6, Chapter 13 of Esta Code read with Government Servants Conduct Rules 1964.

7. SI. No. 6 Chapter 13 of Esta Code speaks about presentation of any appeal, petition, representation on service matters by civil servants, although words used by opponent against complainant were adverse remarks of her performance and in that capacity she had written direct letter to opponent, however by letter dated 08-09-2016 she had also brought this fact in the knowledge of CEO of AEDB, but admittedly no action has been taken thereon till now. It is also an admitted position that opponent in his defence filed on 14-10-2016 has not denied the words used by him against the complainant as an ethical acts like making false and fabricated complaint by complainant.

By quoting Blacklaws dictionary meaning which reads as under :

Unethical not in conformity with moral norms or standard of professional conducts.

8. Opponent has tried to say that he has not used any defamatory words against complainant which forced her to file this complaint. Defense as taken by opponent does not seen any logic therein because any act which is not in conformity or in agreement to moral norm will be termed as unethical. Same like meaning has been given in Oxford Advance Learner dictionary at page 1684

Unethical – not morally acceptable

Despite the situation that there may be high differences in between employees and officers but still then they should be cautious enough to make such unparliamentary remarks either he or she be superior or sub

ordinate to him or her.

9. The term use as “not inconformity” means behavior or action which is not acceptable according to the rule of society, so if a word unethical is used against any person it refer to lack of moral principle or unwilling to adhere to proper rules of conduct by her, which indeed is an act to malign person’s character as a whole. Whereon admittedly, as alleged by complainant, no action has been taken by senior officer before whom this file was placed in further correspondence.
10. If by referring false applications opponent intend to say that previous complaint filed by complainant having No. 1(188)/2015-FOS or cases instituted by her in High Court, then also record show that her contention in complaint No. 1(188)/2015-FOS in her up gradation in her service status somehow was accepted even by the President Secretariat on 30-09-2016 with the direction to agency i.e. AEDB “ to dispose of matter of up gradation of superintendents as per rules / laws within period of 15 days” and so also order of her termination from service on 13-02-2014 was suspended by Islamabad High Court, and service of complainant was restored. Although ICA No. 473/2016 is pending before Islamabad High Court, but no conclusion can be drawn about it before disposal of ICA No.473/2016. Therefore to agitate for her right which somehow was accepted by judicial forms cannot be said to be false litigation as alleged by opponent. Here it will not be out of place to mention that even during pendency of ICA filed by organization taken benefit of Supreme Court judgment dated 26-09-2016 in C.P No. 3/2014 and CMA No. 8540/2014, by order dated 10-11-2016 AEDB has terminated four of its employees, including complainant and Salman Ishaq Malik Deputy Director who was representing complainant before Federal Ombudsman in present case.
11. Again this termination letter of 10-11-2016 has been challenged by complainant before Islamabad High Court in writ petition No. 4374/2016 and by order dated 30-11-2016 second termination order of 10-11-2016 has been suspended till next date of hearing. What happened thereafter

has not been brought on record. Though this forum has no concern with any further proceedings in above referred petitions, but has reason to observe that words as had been used by opponent of unethical act like false and fabricated litigation in against to complainant were not just and proper, before any final decision in pending cases. Initiation of adverse action by authorities of organization after moving complaint against opponent, proved through different documents placed by both parties, reflects that organization itself became part of the conduct of opponent not only against complainant, but also against Salman Ishaq Malik who was representing complainant before Federal Ombudsman.

12. Upshot of above discussion is that by using unethical act like making false and fabricated complaints against complainant opponent has tried to disgrace her in general public, hence he has committed offense of harassment, however taking lenient view minor penalties of censure under sub-section 4(i)(a) and a penalty under i(d) of an amount of Rs. 10,000/- of Section- 4 of Act of 2010 is imposed on opponent. Penalty amount of Rs. 10,000/- is payable to complainant. Complaint allowed.
13. Management of AEDB is hereby directed to implement judgment within period of 15 days of receipt of this judgment and intimate to this office accordingly.
14. Parties be informed.
15. Announced in open court.

**JUSTICE (R) YASMIN ABBASEY**  
**Federal Ombudsman**