

OFFICE OF THE OMBUDSMAN

Islamabad

FORM OF ORDER SHEET

Appeal No. FOH-HQR/0000553/18

Serial No. of Order of Proceedings	Date of order of Proceedings	order of other proceedings with signature of federal ombudsman
1	2	3
	03-01-2019	<p>Appeal No. <u>FOH-HQR/0000553/18</u>.</p> <p>The appellant namely Dr. Asif Khokhar aggrieved by the decision of the two inquiry committee's decisions dated 11th September 2017 and 13th September 2018 and in the consequence of those recommendations of inquiry committees, appellant has filed this appeal against their decision.</p> <p>Facts leading to this case are that appellant Dr. Asif Khohar was appointed as Chief Pharmacist by the Pakistan Kidney and Liver Institute & Research Center (PKLI&RC). Having an experience of more than 40 years of service to his credit on 1st November 2016 he was appointed as the Head of Pharmacy.</p> <p>According to the appellant Asif Khokher, Miss Sadia Qaba joined the (PKLI) as a pharmacy officer on 1st August 2017. During the probation period of Sadia Qaba (respondent) her performance was unsatisfactory. Appellant Asif Khokhar asked the respondent Saida Qaba to resign so that she may not be stigmatized as her performance was not good but instead of resigning the respondent Sadia Qaba lodged a complaint of sexual harassment against the appellant on 11th September 2017. There was no formal complaint on record. The matter was amicably sorted out between the parties. No inquiry committee was ever constituted but the appellant was</p>

		<p>subsequently terminated on 15th of September 2018. The termination was challenged by the Appellant in the Honorable Lahore High Court Lahore in WP No 238252/18 which is pending adjudication in the court of His Lordship Justice Mazahar Ali Akbar Naqvi, in which the copy of the comments filed by the respondents were unofficially received on 05/11/2018 by the Appellant, while perusing the comments it was disclosed to the appellant that the appellant was terminated on the charge of sexual harassment and it was one of the grounds for his termination. As the complaint was lodged by Miss Sadia Qaba in Sept 2017 neither Inquiry committee was constituted nor the right procedure was adopted by the PKLI. Moreover, according to the appellant the reports of Inquiry Committees which are presented by the respondents in this court are fabricated and if at all it could be assumed that an inquiry committee was established that formation is in sheer violation of the section (3) of the Protection against Harassment of Women at Workplace Act 2010 which categorically says that Each organization shall constitute inquiry committee within thirty days of the enactment of this act to inquire into the matter.</p> <p>The committee shall consist of three members of whom at least one member of the Inquiry Committee shall be a woman but in this case all the members are male. The Inquiry committee which was constituted consisted of four members which is in violation of section 3 sub-section (2) of Protection against Harassment of Women at Workplace Act, 2010. The inquiry committee also violated the section 4 of protection against Harassment of woman at work place Act which says that the inquiry committee, within three days of receipt of a written complaint shall Communicate to the accused the charges and statement of allegations leveled against him and require the accused, within seven days from the day the charge is communicated to him, to submit a written defense.</p>
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was constituted nor any procedure was adopted and the report of inquiry committee seems to be fabricated, it also transpires to this court that respondent Sadia Qaba again filed a complaint of similar nature against the appellant Asif Khohar on 13 September 2018 to Saeed Akhtar CEO PKLI&RC alleging the same grounds as stated in previous complaint of unacceptable behavior of Appellant Dr. Asif Khokhar towards her and no new allegation was on the record.

It is pertinent to mention here that the second Complaint was lodged on 13 September 2018 and the harassment committee of PKLI&RC recommended the penalty on 15 September 2018 within 2 days which is in sheer violation of not only the section 3 & 4 of the Protection against Harassment of woman at Workplace Act 2010 but the constitution of the Pakistan also.

Even though in the instant appeal, finding and recommendation of both the inquiry committees are not relied upon , however this office has lawful jurisdiction to confirm, set aside, vary or modified the decision under this Act 2010 on the basis of available record and reach its own conclusion . Keeping this in mind available record and subsequent events, in the present facts and circumstances, the appellant is alleging that he was terminated because he refused to comply with the wishes of the PKLI&RC respondents.

In the above discussion, this office disagrees in totality with the conclusion drawn by the inquiry committees of Pakistan Kidney and Leaver Transplant & Research Center and therefore, the instant appeal is hereby accepted and impugned decision of inquiry committees PKLI&RC dated 11thSeptember 2017 and 13thSeptember 2018 is hereby set aside.

OMBUDSMAN