

# OFFICE OF THE OMBUDSMAN

## Islamabad

### FORM OF ORDER SHEET

Appeal No. FOH-HQR/0000173/2021

Serial No. of Order of Proceedings	Date of order of Proceedings	Order of other proceedings with Signature of Federal Ombudsman			
		TITLE:	Muhammad Munir Akhtar Manager Grade	VS	Askari Bank Ltd. through its President/Chief Executive Officer
		Department: Askari Bank Ltd.			
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	03-02-2022	Appeal No. <u>FOH-HQR/0000173/19</u>  Ms. Maha Aslam, Banca Sales Executive (BSC) submitted a complaint to Head office Askari Bank Limited vide email dated 18-12-2018 wherein she alleged for being harassed at workplace by Mr. Munir Akhtar, Branch Manager, Hassan Abdal branch and his friend Ch. Anwar ul Haq who was an ex-employee of Askari bank and a customer at the relevant time. It was alleged by the Complainant that she was forced by Mr. Munir Akhtar, Branch Manager Hassan Abdal Branch on November 13, 2018 to accompany and go back home along with Ch. Anwar ul Haq, a customer of branch who was also an ex-employee of Askari Bank Ltd. That Ch. Anwar ul Haq on the way to her home turned his conversation from friendly to immoral one and gradually proposed her to be friend with Complainant and with the branch manager. This was followed by unwelcome and forced physical advances which constituted the sexual harassment. On the very next day she (Complainant) reported the incident to Mr. Munir Akhtar, Branch Manager and later on Ms. Ayesha, Banca Coordinator at area office as well as to senior officers of both EFU and AKBL including Mr.			

		<p>Ali Muhammad Junjua, Area Manager Wahcantt. However the matter was not addressed properly. Ms. Maha Aslam later on discussed this matter with cashier and Manager Operations.</p> <p>The above complaint was entertained by the management high ups and investigation was conducted into the matter. Four senior officers namely Ms. Aliya Zafar, Chairman CH-HRD, Sheikh Muhammad Ibrar, RGM-northern-II, Ms. Sonia Farooq, Head recruitment and Mr. Shakil Ahmed, Head Management Audit looked into the matter to ascertain the factual position of that complaint. This investigation team made threadbare investigation and fixed the responsibility upon Mr. Munir AKhtar, Branch manager for harassment of the female employee at workplace. Mr. Muhammad Junjua was also held responsible for not performing his supervisory duty in a prudent manner. The committee recommended for disciplinary action against the branch and area manager. It also recommended appropriate action against Ms. Ayesha Ambreen, Banca Coordinator.</p> <p>In view of the investigation above mentioned, disciplinary proceedings were initiated against the branch manager. He was charge sheeted on 11-03-2019 for violation of bank's code of ethics and conduct which tantamounted to gross misconduct as per bank's disciplinary action policy clause-8 read with sub clause 8.16, 8.17 and 8.19. Accused was asked to furnish his explanation for the charges. He submitted reply whereby he denied the charges against him. Consequently an elaborate inquiry was conducted which consisted of seven senior members. This committee conducted in depth inquiry touching almost all the relevant points. Statements of many witnesses were recorded who were also cross examined. Both the Complainant and accused participated in the inquiry. On conclusion of the inquiry it was recommended by the inquiry to remove Mr. Munir Akhtar, Branch Manger from service of Askari bank on account of found guilty of</p>
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		<p>sexual harassment and breach of SOPS and procedure with strict warning to Mr. Muhammad Janjua, SVP Area Manager of his failure to perform his duty as per SOPs.</p> <p>Accordingly Mr. Munir Akhter was imposed upon major penalty of dismissal from service by the competent authority vide letter of dismissal dated July 31, 2019. Against this order of dismissal Muhammad Munir Akhter filed an appeal to the bank appellate authority on 20-08-2019. Although according to Muhammad Munir his appeal is not responded by appellate authority, yet, on the record, it is established that this appeal was dismissed by the authority vide order dated 27-12-2019. Meanwhile Mr. Munir Akhtar also approached the learned civil court, Islamabad filing suit for defamation and recovery of outstanding dues and damages etc but that plaint was rejected under order V-1 Rule 11 CPC vide order dated 15-07-2021, observing that the matter fell under the ambit of Protection against Harassment of Women at the Workplace Act 2010. Taking advantage of the above remarks of the civil court, Mr. Munir Akhtar approached this forum filing appeal under section 6(1) of the Protection against Harassment of Women at the Workplace Act 2010 against the decision dated 27-12-2019 and 31-07-2019. Along with the appeal, the appellant also filed an application for condonation of delay in filing the appeal on the ground that delay, if any, was caused due to proceedings before the civil court Islamabad which was approached by him in good faith. He also took the plea that the impugned order was void hence no limitation would run. The appeal as well as the application for condonation of delay were vehemently contested by the respondent by filing detailed parawise reply in this connection.</p> <p>I heard the arguments of learned counsel for the parties and perused the record.</p> <p>Admittedly the impugned dismissal order was passed on 31-07-2019.</p>
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		<p>The language and the contents of this order would show that it had been passed in terms of bank's disciplinary action policy clause 8 read with sub clause 8.16, 8.17 and 8.19. It doesn't appear from this order that action has been taken under the provisions of Protection against Harassment of Women at the Workplace Act, 2010.</p> <p>Had this order been passed in terms of provisions of the Act, 2010, the appellant could have approached this forum under section 6 (1) of the Act <i>ibid</i>. And for that matter he should have preferred an appeal within thirty days of communication of the decision. Since the appellant did not approach FOSPAH and instead filed appeal to the departmental hierarchy, he cannot seek the shelter of the provisions of the Act, 2010 at this belated stage.</p> <p>In my view the instant appeal under section 6 of the Act, 2010 is quite irrelevant and incompetent at this forum because the penalty imposed upon the appellant is not the result of the inquiry conducted under section 4 of the Act, 2010. On the other hand the inquiry against the appellant has been conducted under the bank's disciplinary action policy clause 8 referred to above. It must be in the knowledge of the appellant that the penalty on him was imposed under the bank disciplinary action policy that is why he filed appeal to the president of the bank concerned. Having been declined his appeal by the appellate forum of the bank concerned, the appellant should have approached the other competent forum instead of filing the instant appeal under the provisions of the Act, 2010. He could have filed the appeal at this forum under section 6 of the Act, 2010, if he was awarded penalty under provisions of the Act <i>ibid</i>. This is not the case here. After thorough scrutiny of the record it transpires that both the investigation committee and inquiry committee took great pain in conducting fair and impartial inquiry. No malafide on the part of the said two committees established on the record. The instant appeal by the Appellant is quite</p>
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timebarred in terms of section 6 of the Act 2010. Needless to explain, law of limitation is a statue of repose designated to bar stale and water logged disputes and is to be strictly complied with. Hurdles of limitation cannot be crossed under the guise of any hardships or imagined in hand discretionary jurisdiction of the court. Mere wrong advice of counsel was not an adequate ground perse to constitute sufficient cause because if the rule that “ignorance of law was no excuse”, would stand violated. The appellant is unable to explain plausibly why he did not pursue the matter vigilantly. It is well settled principle of law that law helps the vigilant not the indolent and that delay would defeat equity.

For the aforementioned reason I find no convincing ground for condoning the delay in filing the appeal. More so this matter falls outside the scope of the Act 2010. Filing this appeal at this forum at such a belated stage is nothing more than the efforts of a drowning man who catches at a straw.

As sequel to my above findings not only the application for condonation is rejected, the entire appeal is also declined being not competent at this forum.

Disposed off accordingly.

**OMBUDSMAN**