

**OFFICE OF THE FEDERAL OMBUDSPERSON
FOR PROTECTION AGAINST HARASSMENT OF WOMEN
AT THE WORKPLACE, ISLAMABAD**

FORM OF ORDER SHEET

Appeal No. FOH-HQR/0490/2024

Date of Institution: 13-12-2024

Serial No. of Order of Proceedings	Date of order of Proceedings	Order of other proceedings with Signature of Federal Ombudsperson		
		TITLE:	Muhammad Rahman	VS
1	2	Department: AI-Meezan Investment Management		
06	05-06-2025	Subject: <u>Final order on Appeal.</u> <ol style="list-style-type: none">1. This appeal has been filed by Muhammad Rahman (hereinafter referred to as the "Appellant"), who was serving as Regional Sales Head (North) at AI-Meezan Investment Management Limited, against the dismissal order dated 08-11-2024, passed by the competent authority.2. A complaint of harassment was filed by Javeria Waheed (hereinafter referred to as the "Complainant"), a junior employee at AI-Meezan Investment Management Limited (hereinafter referred to as the "Organization"), alleging sexual harassment by the Appellant, who was her supervisor. According to her, the Appellant asked personal questions, offered friendship, and suggested that if she planned to go abroad in the future, she should include him in her plans. After office hours, he sent her a WhatsApp message apologizing for what he had said earlier in the afternoon.3. During the annual cricket tournament, he attempted to speak to her in private, but she did not respond. He then sent her a WhatsApp message saying, "kiu khafa ho janab?" (Why are you upset, madam?). At the conclusion of the event, he announced plans to take the team on an annual picnic to Malam Jabba, including an overnight		

stay. When a colleague inquired whether they could bring their partners, the Appellant responded that they should arrange a partner for him as he had already booked a room at PC. While leaving, he also offered the Complainant a ride in his car. She became frightened, called the administrative staff, and attempted to leave the parking area.

4. During the mid-year appraisals, when the Complainant suggested that they begin compiling the staff appraisals, the Appellant replied,

"Meray pas abhi to time nahi hai, aik kaam kro, meray sath meray flat per chalo, wahan ja k kartay hain." (I don't have time right now, do one thing—come with me to my flat, and we will do it there.)

She warned him to stop mentally harassing her and to let her focus on work.

5. On 19-05-2024, he called her into his office and asked her to check an issue with his wireless mouse. While she was checking it, he stood close behind her, making her feel uncomfortable. She was frightened, and he remarked,

"Daro nahi, main tab tak kuch nahi karunga jab tak tum mujhe ijaazat nahi dogi." (Don't be afraid, I won't do anything until you allow me to.)

Hearing this, she immediately left the office, telling him she was not comfortable in his presence.

6. Again, on 29-04-2024, he showed her a sticky note on which he had written,

"I want to touch you."

She left the office and began ignoring him. From 01-01-2024 to 03-02-2024, he texted her almost daily. During office hours, he told her,

"I will wait for your replies; take your time."

She verbally warned him in clear terms, to which he responded,

"Give 95% to your personal life, and I just need the remaining 5%."

Repeatedly, he mentally harassed her, saying,

"I have no issue; I can ask other girls anytime, but I want you. So, when you go to see the mountains, let me take you with me."

He even pressured her into shaking hands, which she always refused. Before a sales conference, while working on a presentation, he deliberately told her that if he called her to his room, she must come at any cost.

7. Based on her complaint, a Show-Cause Notice was issued to the Appellant. An inquiry was conducted, and based on the recommendations of the inquiry committee, he was dismissed from service. The Appellant then filed this appeal, challenging the inquiry proceedings on the grounds that:

- I. The inquiry committee was not properly constituted.*
- II. The complaint alleged a hostile environment, but harassment proceedings were initiated instead.*
- III. He was not given an adequate opportunity to cross-examine the Complainant.*
- IV. The evidence was not disclosed to him.*
- V. He was, in fact, harassed by the Complainant, who was a junior officer.*

vi. *The dismissal order suffered from significant procedural improprieties, lacked transparency, and was biased, causing him mental distress and reputational harm.*

The Appellant prayed for the dismissal order to be set aside and sought a declaration that the actions of the Respondents constituted harassment and gender discrimination. He requested reinstatement with compensation for mental distress and also prayed for a fresh inquiry into the allegations.

8. The appeal was contested by the Respondents, including the complainant and member of the inquiry committee. The Respondents contended that the proceedings were conducted in accordance with the Human Resources Policy Manual. Upon receiving the complaint, a show-cause notice was issued to the Appellant with detailed allegations. He submitted a reply, which was found unsatisfactory. A notice of inquiry was issued, and the inquiry was conducted on 29-08-2024.

9. According to the Respondents, the disciplinary proceedings were taken against the Appellant and were not conducted under the *Protection Against Harassment of Women at the Workplace Act, 2010*. Since, the complaint mentioned hostile incidents, prudence dictated that it not be treated exclusively under the Act. Instead, the disciplinary policy was applied. They further argued that this forum lacks jurisdiction to hear the appeal and, therefore, prayed for its dismissal.

10. The arguments of both parties were heard, and the record was reviewed.

11. The first argument raised by both parties was regarding the allegation of a hostile work environment. The Appellant contended that the proceedings should not have been initiated under the *Protection Against*

Harassment of Women at the Workplace Act, 2010, while the Respondents argued that the complaint narrated hostile incidents, making the proceedings under the Act invalid.

12. The *Code of Conduct* provided under the Act defines a hostile environment as a significant manifestation of harassment at the workplace. Explanation (b) of para ii states that

"a typical hostile environment claim generally requires a pattern of offensive conduct. However, in cases where harassment is particularly severe, such as those involving physical conduct or gender-based discrimination, a single offensive incident may constitute a violation."

The Complainant alleged a series of actions indicating sexual advances and requests for sexual favors, which allegedly created a hostile work environment. Therefore, the proceedings could validly be conducted under the Act.

13. The second issue in this appeal concerns whether the proceedings were disciplinary or conducted under the *Act of 2010*. The Show-Cause Notice issued to the Appellant is significant in this respect. It states:

"The aforesaid acts amount to serious misconduct and sexual harassment of female employees at the workplace, constituting acts highly subversive of discipline under the standing orders and also tantamount to harassment of women at the workplace."

This indicates that workplace harassment proceedings were conducted but were amalgamated with disciplinary

proceedings. However, there is no clear indication that it was a disciplinary inquiry. Furthermore, the inquiry was conducted by a single individual rather than a properly constituted committee as required under Section 3(2) of the *Act of 2010*, which mandates that the committee consist of three members, including at least one woman.

14. During the arguments, the Respondents' counsel stated that the Organization had a harassment committee but failed to explain its composition or why the matter was not referred to it. When questioned, he stated that the Respondents were willing to conduct a fresh inquiry under the *Act of 2010* if the matter was remanded. The Appellant has requested a fresh inquiry, asserting that the original proceedings were not conducted in accordance with the Act. It is a settled principle of law that where the law requires an act to be done in a particular manner it has to be done that way and not otherwise

Reliance is made on 2024 PTD 1085 in the matter of Commissioner Inland Revenue, Large Taxpayers Office, Islamabad Versus Pakistan Oilfields Ltd., Rawalpindi and others

(c) Interpretation of statutes---

----Provision couched in a negative language---

Where any provision couched in a negative language requires an act to be done in a particular manner then it should be done in the manner as required by the statute otherwise such act will be illegal and without jurisdiction.

Similarly, reference is made to another judgement reported in 2024 CLC 85 in the matter of Fahim Ullah Khan versus District Returning Officer

b) Administration of justice---

----When a law requires an act to be done in a particular manner and after fulfillment of certain requirements then it must be done in the very

manner and after fulfillment of the very conditions
as imposed by the law.

15. It is clear from the material placed on the record that the proceedings were not conducted in accordance with law. The complaint related to harassment at workplace. The Show Cause Notice/Statement of allegations were also issued under the said Act. The inquiry was however not conducted by the committee constituted under the said Act. The defect in constitution of committee is incurable.

16. Accordingly, the findings and sentence awarded to the Appellant cannot be upheld. The dismissal order is set aside, and the matter is remanded to the Organization for a fresh inquiry strictly in accordance with the law to be conducted within the period specified in the *Act of 2010*, i.e., 30 days.

The file be consigned.

FEDERAL OMBUDSPERSON