

OFFICE OF THE OMBUDSMAN

Islamabad

FORM OF ORDER SHEET

Appeal No. 1 (422)/2018-FOS (Reg)

Serial No. of Order of Proceedings	Date of order of Proceedings	Order of other proceedings with Signature of Federal Ombudsman TITLE: Muhammad Sarfaraz Vs Divisional Superintendent & others
1	2	3
	10-01-2019	<p>Appeal No. <u>1 (422)/2018-FOS</u> (Reg)</p> <p>Through this order, this Forum intend to decide upon Appeal filed by Muhammad Serfraz herein after referred to as “Appellant” Clerk Allam Iqbal Colony Post office against order dated 30-01-2018 “Impugned order”. Reproduced here below:</p> <p style="text-align: center;"><i>“The competent authority shall impose the penalty recommendations made by the Inquiry Committee under Section 4 of the Protection against Harassment of Women at Workplace Act, 2010 and in exercise of the powers delegated under Section 4(5) of the act ibid impose the penalty stoppage of one increment for one year without future effect”.</i></p> <p>Brief facts of the case are that Shama Pervaiz herein after referred to as “Respondent No. 2” working as a stamp vendor in Controller Military Accounts post office Rawalpindi city, on 26.05.17, she filed a complaint to Deputy Post Master (Admin) Pakistan Post. Wherein Respondent No 2 stated that Appellant use to visit Controller Military Accounts post office during working hours and would indulge into meaningful gossips with postmaster Controller Military Accounts Mr. Nabeel and also used to harass the Respondent No 2 with objectionable gestures.</p> <p>That the matter was referred to the Inquiry Committee by the Postmaster</p>

		<p>General northern Punjab circle Rawalpindi on 13-09-2017. That the Inquiry Committee proceedings were held on 15-09-2017 in the chamber of Assistant post master general Northern Punjab circle.</p> <p>On 13-09-2017 on the basis of complaint by the Respondent No. 2, a memorandum was sent to Appellant to clear his position. Inquiry was initiated and both parties appeared before Inquiry Committee and Appellant submitted his reply and denied all allegations against him.</p> <p>That the Inquiry Committee recorded the statements of Shama Pervez Appellant, Nabeel Anjum, Muhammad Nazir, Muhammad Serfraz, Ms. Robina Shaheen and Tahira Rasheed .that the Inquiry Committee complete its proceeding and submit its report while imposition of penalty against the Appellant to <i>impose the penalty stoppage of one increment for one year without future effect</i>”.</p> <p>In his appeal, the Appellant argued that the impugned order dated 30-01-2018 was against the law and the facts of the case as there was no harassment in the first place and the complaint was filed with a malafide motive. Secondly, the Inquiry Committee was biased and not constituted as per the requirement of the law and did not provide ample opportunity to the Appellant to defend himself. The impugned order is against the facts of the case as well as against the law. The Inquiry Committee violated the section 4 (4) (5) of the Protection against Harassment of Women at Workplace Act, 2010</p> <p><i>Section 4(4) of protection against Harassment of woman at work place 2010 Act which says that the Inquiry Committee shall submit its findings and recommendation to the competent authority with thirty days of the initiation of inquiry. If the Inquiry Committee finds the accused to be guilty it shall recommended to the competent authority for imposing following penalties.</i></p> <p><i>Section 4(5) states that the competent authority shall impose the penalty recommended by the Inquiry Committee under Section 4 within one week of receipt of the recommendation.</i></p>
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		<p>file.</p> <p>Moreover the Inquiry Committee was in contravention of Section 9 of the Protection against Harassment of Women at Workplace. Filing and Disposal of Complaints Rules, 2013. Produced as below:</p> <p>Section 9 of the Act 3013 Imposition of penalty. On receipt of recommendations and findings of the Inquiry Committee or the ombudsmen, the competent authority shall, within one week of receipt of the recommendations and findings, imposed the penalty recommended by the Inquiry Committee or ombudsman or otherwise refer back the case to Inquiry Committee with observation to be addressed immediately.</p> <p>For the aforementioned reasons, this office disagrees with the findings of the Inquiry Committee. However, there is no doubt that mischief has been caused by the Appellant to the effect that the office environment became compromised. The Appellant should have been careful and responsible enough not to forward or float complainant's number in such a manner.</p> <p>Therefore, in view of above mentioned discussion, impugned order dated 30-01-2018 is set-aside.</p> <p style="text-align: right;">OMBUDSMAN</p>
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