

# OFFICE OF THE FEDERAL OMBUDSPERSON

FOR PROTECTION AGAINST HARASSMENT OF WOMEN

AT THE WORKPLACE, REGIONAL OFFICE LAHORE

ORDER SHEET

Appeal NO: FOH-LHR/0000023/2023

Date of Institution: 20-09-2023

Sr No.	Date of order of Proceeding	TITLE	MUQADDAS FATIMA	VS	MUBASHIR MUKHTAR
		DEPARTMENT:- Pakistan Hockey Federation			
1	2	3			
33	27-06-2024	<p><b><u>Order on Complaint filed under section 8 of the Protection against Harassment at Workplace 2010.</u></b></p> <p>1. The present complaint has been filed by Muqaddas Fatima, technical official at Pakistan Hockey Federation and tournament official at the Prime Minister's Youth Talent Hunt Programme (<i>hereinafter referred to as Complainant</i>) against Mubashir Mukhtar, Director Sports at Sir Syed University and Organizing Secretary of the Talent Hunt Programme (<i>hereinafter referred to as Accused</i>). In the complaint, the Complainant has alleged that during the 7<sup>th</sup> match of the Talent Hunt Programme, which was being played between the women's hockey teams of KPK and Federal, the Accused came to the Jury Box, along with 4-5 other unauthorized individuals, and misbehaved with her by snatching the match sheet from her which she was getting signed by the match officials and tore it up. He also pushed her and used inappropriate language. The situation only came under control after the officials of the Higher Education Commission called the police who arrived at the scene and asked everyone present to leave. Feeling aggrieved by the incident the Complainant submitted that she filed an application against the Accused at</p>			

Gulberg Police Station and requested that strict action be taken against him. She also filed a departmental complaint which led to the constitution of an Inquiry Committee but because no action was taken subsequently she approached this Forum for relief. As per the Complainant the Accused's misbehaviour created a hostile atmosphere for her making her uncomfortable and undermined her ability to perform her duties effectively.

2. In his response, the Accused denied all the allegations of the Complainant and stated that he never tore the match sheet which is intact to date and that in the presence of police officials at the scene it was impossible for him to harass her. According to the Accused the fact that the Gulberg Police Station and the departmental Inquiry Committee took no action on her complaints is proof that the Complainant is lying.

3. Afterwards both the parties recorded their evidence with the Complainant producing herself, Hina Pervaiz (umpire in the Talent Hunt Programme) and Attia Anees (spectator at Talent Hunt Programme) as PWs1-3. On his behalf, the Accused himself, Muhammad Tanvir (Manager Punjab, Men's Hockey Team) and Mudassar Nazir (Assistant Organizer at the Talent Hunt Programme) appeared as DWs1-3. Final arguments were then heard by me and I have also perused the record.

4. It is an admitted position that the instant complaint has been filed under the Protection against Harassment of Women at the Workplace Act, 2010 (**Act**) which states that only harassment of a sexual nature or based on gender discrimination is cognizable by this Forum [refer Section 2(h) of the Act]. Resultantly, for this Forum to grant relief to the Complainant it needs to be shown that her grievances fall within either one or both of the limbs of harassment.

5. The Complainant has asserted that the Accused's snatching of the match sheet, tearing of it and pushing her amounts to harassment as it created a hostile atmosphere for her. Although actions not of a sexual nature, the conduct of the Accused clearly shows his discriminatory and prejudicial mindset towards women. This is because in his cross-examination the Accused admitted that the Complainant was entitled to place her signature on the match sheet while he was not authorized to do so. He also accepted that he had not produced in evidence the match sheet that he claimed he had not torn up, even though in his reply filed before this Forum he claimed to have appended it with the said reply. Further, it is a matter of record that the incident of harassment occurred during a women's hockey match. As per the Accused's own witness Mudassar Nazir, male staff were not allowed to enter the premises when women hockey matches were being played. However, despite being the Organizing Secretary of the Talent Hunt Programme, the Accused ignored this rule and entered the Jury Box when the women hockey teams of KPK and Federal were playing. Additionally, in the video evidence provided by the Accused the Complainant can clearly be heard saying to a male to move away as she had already been previously pushed. The above material therefore shows that the Accused did indeed misbehave with the Complainant and attempted to assert his dominance over her. Now according to a recent decision of the Supreme Court in **Nadia Naz Vs. President of Islamic Republic of Pakistan** (PLD 2023 SC 588):

'4. ...sex-based discrimination does not have to be limited to sexual activity, rather it is behaviour which is promoted on account of the gender as a result of gender-based power dynamics, which behaviour is harmful and not necessarily a product of sexual desire or sexual activity. Such harassment is motivated to degrade and demean a person by exploitation, humiliation and hostility which amounts to gender-based harassment and can include unwanted sexual alleviation and sexual coercion. Such behaviour in law becomes harassment at the workplace when it

causes interference with work performance or creates an intimidating, hostile or offensive work environment...

*(emphasis supplied)*

If assessed in the light of afore-cited dictum, it becomes clear that the Accused acted the way that he did with the Complainant because he considered himself to be superior to her and thought it acceptable to humiliate and demean her by pushing her and denying her authority. That he succeeded in his goal is evidenced by the Complainant's claim that the incident undermined her ability to perform her duties effectively. In any harassment complaint, examining and understanding the effect of harassment on the victim is essential since he or she is the person who has undergone the trauma [refer **Nadia Naz** case (*supra*) at para 14]. The victim's perspective also helps in assessing correctly the severity of the harassment because much of the conduct treated as harassment by women is regarded by men as '*harmless social interactions to which only overly-sensitive women would object*' [refer **Ellision v Brady** (1991) 9<sup>th</sup> Circuit, 924 F.2d 872 at pg.879]. Consequently, in light of what has been discussed I find the Accused guilty of harassing the Complainant.

6. The Accused's defense that he was acting as per the directions of the superior Government Departments and was only trying to intervene as he believed that the KPK team was wrongfully given a walkover victory (a victory given to a team if the other team does not turn up to play within 10 minutes after the start of the match) is not convincing because even if it is assumed that the Accused held this genuine belief, the video evidence shows that his actions were disproportionate to the perceived wrong. Moreover, his contention that since the Gulberg Police Station and the departmental Inquiry Committee took no action on the complaints of the Complainant, therefore, it is established that she is lying

has no merit because it was for him to prove this allegation with cogent evidence, which he failed to do.

7. Accordingly, for having harassed the Complainant I impose the following minor penalties on the Accused: stoppage of increment for a period of three years under Section 4(4)(i)(b) of the Act along with compensation of Rs.100,000 to be paid to the Complainant under Section 4(4)(i)(d). The present complaint is allowed in the above terms.

**FEDERAL OMBUDSPERSON**