



**FEDERAL OMBUDSMAN**  
**For Protection against Harassment of Women at Workplace**  
**Islamabad**

**J U D G M E N T**

1. Appeal Number: 1(369) / 2017-FOS (Reg)
2. Date of Institution: 16-08-2017
3. Date of Decision: 16-10-2017
4. Appellant: Mst. Nadia Naz  
Camera Person, ETV Center  
PTV Home  
Islamabad
5. Respondents:
  - i. Usama Azhar  
PTV Academy, H-9  
Islamabad
  - ii. Saif Azhar  
PTV Academy, H-9  
Islamabad
  - iii. Dr. Nouman Niaz  
DS PTV Headquarters  
Islamabad
  - iv. Saeed Athar  
Controller Admn and Personnel (Estb)  
PTV Headquarters  
Islamabad
  - v. Monawar

Deputy Controller Admn and  
Personnel (Estb)  
PTV Headquarters  
Islamabad

vi, Dr. Farkhanda Shaheen  
General Manager  
PTV Home  
H-9, Islamabad

vii. Murtaza  
Photographer  
PTV Home  
H-9, Islamabad

viii. Afzal Chaudhar  
Cameraman  
PTV Home  
H-9, Islamabad

ix. Asif Shah  
Lightman  
PTV Home  
H-9, Islamabad

**Justice (R) Yasmin Abbasey,**

**Federal Ombudsman:**

**Appeal No. 1(369)/ 2017-FOS.**

1. The Complainant, Ms. Nadia Naz, was working in the Pakistan Television Corporation Limited, as Resource Person (Camera Department) since 4.9.2007 and designated as Camera Person. She had brought a complaint of Harassment against Mr. Usama Azhar, (ACS Functioning) PTV Sports (Respondent No. 1) and Saif Azhar (Program Assistant) GM Office, (Respondent No. 2) stating that on 20.11.2015 the Respondents 1 & 2, misbehaved with the appellant by abusing and physically assaulting her. The remaining Respondents, Dr Nouman Niaz, DS, PTV Headquarters, Islamabad (Respondent No. 3), Saeed Athar, Controller Admin and Personnel (Estab), PTV Headquarters, Islamabad (Respondent No. 4), Monawar, Deputy Controller Admin and Personnel (Estab), PTV Headquarters, Islamabad (Respondent No. 5), Dr Farkhanda Shaheen, General Manager, PTV Home, H-9, Islamabad (Respondent No. 6), Murtaza, Photographer, PTV Home, H-9, Islamabad (Respondent No. 7), Afzal Chaudhry, Camera Man, PTV Home, H-9, Islamabad, (Respondent No. 8) and Asif Shah, Light Man, PTV Home, H-9, Islamabad (Respondent No. 9) have been arrayed as parties on the allegation that they are working in collusion with Respondents 1 & 2 so as to mislead and sabotage the complaint of the Complainant.
2. This instant case is an appeal against the Inquiry Report dated 5.7.2017 submitted by the Inquiry Committee conducted by the Ministry of Information, Broadcasting and National Heritage in which the Committee has come to the conclusion that *"no such incident of sexual harassment ever took place on November 20, 2015. Contrary to this, the complainant had used abusive language on intercom against Mr. Osama Zafar, though the accused was not present on the scene"..... "Therefore, the provided evidences are not sufficient enough to establish the guilt beyond doubt. Thus the accused cannot be held guilty of sexual harassment with certainty."* The Complainant has challenged this report via this appeal on

the grounds that, (i) she was not given an opportunity to cross examine the evidence and witnesses of the accused, (ii) statements were not recorded of all the necessary persons, (iii) evidence provided by the appellant was not appreciated which was sufficient to connect the accused with the offence, (iv) the hostile work environment created against the appellant by the accused by virtue of the charge sheets dated 9.12.2015, 21.11.2015, 11.3.2016, ban order dated 8.6.2017 and 4.7.2017, transfer order dated 4.2.2016 and 10.3.2016, termination letter dated 17.5.2017 and recent termination letter dated 18.8.2017.

3. There is no written statement submitted by the Respondents in reply to the allegations in the appeal. Representative from the Respondents gave arguments on behalf of Respondent 1, 2, 3, 6, 7, 8 & 9. Respondent No. 4 was stated to have retired while Respondent No. 5 was on leave and no representation was provided by either party.
4. When confronted with the allegation of not allowing the Appellant the opportunity to cross examine the witnesses brought against her, the Representative from the Respondents admits to the fact and states that an interpretation of Section 4 (2) of the Protection Against Harassment of Women at the Workplace Act, 2010, allowed the Inquiry Committee to regulate its own procedure for conducting the enquiry.
5. There is a further application by the Appellant that immediately following order passed by this Court dated 15.8.2017, letter of termination vide office order was issued on 18.8.2017 to her, for which she has requested to suspend it. A perusal of the letter appears to mention that a previous office order dated 17.5.2016 was issued in which her employment was terminated following investigation over charge sheet dated 11.3.2016.
6. Upon hearing the parties, I hold the following with respect to the submissions concerning the enquiry report dated 5.7.2017.
7. That the opportunity to cross examine a witness is fundamental to the laws of evidence and to the fundamental human rights as laid down in the Constitution of the Islamic Republic of Pakistan under Article 4 which

guarantees the right to a fair trial. Furthermore, under the Protection Against Harassment of Women at the Workplace Act, 2010, Section 4 (1) (c) guarantees the right of cross examination stating that “*each party shall be entitled to cross-examine the witnesses against him*”. Therein there is no ambiguity and any subsequent clause shall remain subject to the provisions of this Act and any rules made thereunder as mentioned in Section 4(2), following which an Inquiry Committee may regulate its own procedure while being cognizant of the law and requirements of its procedure which it may not derogate from. Thereby, any evidence submitted from witnesses which have not been cross-examined as to their veracity or truth in the matter are inadmissible as evidence.

8. As no other evidence appears to have been submitted by the department except inquiry report, therefore it is not possible to come to any conclusion in the matter, because inquiry committee has derogated from law by not allowing the right of cross examination of witnesses.
9. In light of the same, the conclusions of the inquiry report dated 5.7.2017 are set aside.
10. As concerns the application to suspend the order of 18.8.2017 till decision of this court. Her termination of employment from PTV requires a holistic overview of the situation, for which the history of the case needs to be pondered upon, following which this Court may arrive at a conclusion.
11. It is alleged that an incident took place on 20.11.2015 wherein the Appellant was subjected to harassment. As per the case as yet, that allegation appears to have not undergone the investigation and inquiry that the law requires, thereby there is no evidence supporting or countering the same. What is clear are the circumstances that followed the allegations dated 20.11.2015. A charge sheet was issued against the Appellant on 21.11.2015. There is no information as to who brought the charge against the Appellant, wherein she had allegedly been charged with giving or making false statements, which was elaborated on by stating that Anil Taufiq received a phone call, allegedly from her wherein she expressed

seriously insulting and objectionable remarks against Respondent No. 1 and 3. It is not clear if this charge has been brought by Anil Taufiq, or the Respondents 1 & 3. This charge sheet has been signed by Zia-ur-Rehman, Executive Manager (A&P).

12. Following which another charge sheet was issued against the Appellant on 9.12.2015, once more without stating who brought the charges against her, alleging that she had sent representations without routing them through proper channel, referring to her complaint against Respondents No. 1 and 2 which she sent directly to DAP and not through the proper channel. The charge sheet further accused her of disorderly behavior wherein she allegedly blocked the way of Respondent No. 8, used highly objectionable language against him and threatened him with violence. This charge sheet has been signed by Zia-ur-Rehman, Executive Manager (A&P). It is interesting to note that while the office had acknowledged receipt of her complaint, and even moved proceedings against her in light of the same, there had been no charge sheet issued against the Respondents No. 1 and 2, whereas there appear to be two charge sheets pending against the Appellant.
13. Following which through office order dated 10.12.2015 she was immediately suspended for four days from 10.12.2015 till 13.12.2015 based on allegations against her in charge sheet dated 9.12.2015. During this suspension, as per the order, she was not allowed into her office and was required to wait in the reception of ETC Center (PTV Home) and should be available from 9am to 4pm to be contacted as and when required. This office order has also been signed by Zia-ur-Rehman, Executive Manager (A&P). It is pertinent to note that this order of suspension was issued immediately a day after the charge sheet dated 09-12-2015 with allegations against the Appellant. Without conducting an inquiry she was refrained from her work and restrained from entering her office, and was forced to await for further instructions at the Reception of ETV Center during her work hours which seems to have no reason therein.
14. Following which an Enquiry Committee was constituted to probe into the

Charge Sheets dated 21.11.2015, 9.12.2015 and a complaint by the Director Sports against the Appellant dated 16.12.2015. Therein her allegation against Respondents No. 1 & 2 were also discussed but not as part of any charge sheet leveled against the Respondents, it was merely a matter aside to the investigation. Within this Enquiry, of which this Court was provided only the conclusions, the Appellant is found to be not guilty of the charge sheet dated 21.11.2015 but guilty of misbehavior against Respondent No. 8 as per charge sheet 9.12.2015. Her allegations of harassment against Respondents No. 1 & 2, were also dismissed for lack of evidence. A further observation was made in inquiry report dated 12-01-2016 that the Appellant is the only female in a Camera Department comprising of 35-40 males and she allegedly makes the men uncomfortable by her behavior, by virtue of which the place of duty of the complainant and accused employees may be separated to avoid such incidents. There appears to be no information or conclusion as to the complaint of Director Sports against the Appellant dated 16.12.2015. There, further, appears to be no detail as to how the enquiry was undertaken or the evidence brought forth in support of the allegations, thereby no conclusive finding can be ascertained as to the validity or lawfulness of this enquiry. Yet, it is observed that although her allegations were addressed in this enquiry, but no charge sheet was leveled against the Respondents No. 1 & 2, and likewise, no suspension of them was ordered by the organization against respondent No. 1 & 2. This appears a manifest of severe biasness against the Appellant, wherein she has been accused of allegations immediately after voicing her concerns, the first of which proved unfruitful, yet the second appeared to have been successful. The requirement of the law and the Constitution of the Islamic Republic of Pakistan wherein all citizens are to be treated equally, without discrimination, and in accordance with the law, appear to have been flaunted. The other aspect that is concerning to this Court is the lack of diversity in the organization and the unfortunate sexist attitude prevalent due to the overwhelming majority of men in the department, who may easily find motive to act together against the only female employee, which may appear to be the case here, instead of

promoting and encouraging an environment of inclusivity.

15. This scenario was followed by an office order dated 4.2.2016 wherein the Appellant appears to have been transferred from ETV Centre (PTV-Home) to PTV World (English Channel), Islamabad following which the Appellant is to be relieved of her duties on 9.2.2016. This office order was signed by Muhammad Munawar, Deputy Controller, Administration & Personnel (Estb), who is Respondent No. 5. There appears to be no reason given for the transfer. Further to that a letter, dated 10.3.2016 has also been presented which concerns the transfer of the Appellant and contemplates initiation of disciplinary action against the Appellant for not having received the relieving orders/clearance certificate pertaining to the transfer as envisaged in the order of 4.2.2016. This letter was signed by Saeed Ather, Executive Manager (A&P), who is Respondent No. 4. In a bewildering contradiction to the same, an order, on the same date, 10.3.2016 is passed in which the transfer of the Appellant is cancelled and withdrawn vide office order 10.3.2016, once more citing no reason. This is also signed by a Respondent No. 5. It is pertinent to note that these letters have been issued by individuals from the same department, one being the Deputy Controller, the other the Executive Manager of Administration & Personnel Department. There appears to be no evident or justifiable reason to this entire exercise of transferring the Appellant on 4.2.2016 and then withdrawing the same on 10.3.2016. The only conclusion to be drawn, without prejudice to any evidence to the contrary, is that it is merely an endeavor to harass the Appellant.
16. Following the withdrawal of her transfer, a charge sheet is issued the next day, which is 11.3.2016 wherein she is accused of **Disorderly or indecent behavior during working hours within the premises of a unit** in which she has allegedly used very indecent and objectionable language against Respondent No. 5. This charge sheet was signed by Maqbool Shah, Controller, Administration & Personnel. On the same day, 11.3.2016, an office order is issued suspending the Appellant for a period of four days from 11.3.2016 to 14.3.2016 on account of allegations within charge sheet



dated 11.3.2016. She will remain available at the reception of PTV-News, Islamabad. This is followed by an office order dated 14.3.2016 in which the Appellant is suspended for a further period of 4 days from 15.3.2016 to 18.3.2016 on account of allegations in charge sheet dated 11.3.2016. She will once remain available at the reception. This is followed by another office order extending the suspension from 19.3.2016 to 22.3.2016. All these order were signed by Maqbool Shah, Controller, Administration & Personnel. There appears to be a pattern forming here. Both Maqbool Shah as Controller and Respondent No. 5 as Deputy Controller have managed to control the employment conditions of the Appellant within themselves in their office, without paying heed to the conflict of interest that may arise from the same. The Appellant cannot do her work and is forced to sit at the Reception awaiting further instruction, which may be a humiliating exercise in itself, as a means of harassment.

17. Following which there appears on record an Enquiry Report dated 13.4.2016 following an office order dated 18.3.2016 to investigate the allegation in charge sheet dated 11.3.2016. An Enquiry Officer Tariq Mehmood Cheema was appointed,. It is stated within the report that the Appellant was called to appear before the Enquiry Officer but she requested that this enquiry be postponed as she had presented her case before the Federal Minister for Information and Broadcasting, and also showed no confidence on the Enquiry Officer by virtue of him being a part of the Personnel Department. The Officer forwarded the concerns of the Appellant to the Headquarters wherein a reply was submitted in which it was stated that no provision is available regarding discontinuation of enquiry proceedings if accused shows no confidence on enquiry officer. This was communicated to the Appellant who insisted on declining to take part in the proceedings and showed no confidence in the Enquiry Officer. The Enquiry Officer then forwarded the same to Headquarters who directed him to complete the Enquiry. The Enquiry Officer has thereby stated in his Report that *"when the accused has shown no confidence on me twice, I did not call her to take part in proceeding because I do not want to be*

*disrespected third time, so PTV Service Rules Clause 13.10 (c to g) and clauses no. ix, xi & xii of ASI-31 have to be ignored due to her absence from proceedings".* Following which the Enquiry Officer heard the eye-witnesses who stated the accused (Mst. Nadia Naz) was guilty.

18. It is pertinent to mention here that Article 10A of the Constitution of the Islamic Republic of Pakistan has guaranteed the fundamental right of every person to be entitled to a fair trial and due process. It has been further enshrined in the legal system of the world that justice must be without bias and impartial, more aptly put in the famous English case, **R v Sussex Justices, Ex parte McCarthy** ([1924] 1 KB 256), wherein the legal principle was enshrined that *"Not only must Justice be done; it must also be seen to be done"*. It establishes that trial or in this case an enquiry meant to ascertain the guilt or innocence of an individual cannot be maintained if there is a possibility of a bias or partiality of the judge enquiring into the matter. If a concern is raised that that judge enquiring into the matter may have a bias against the party then by the principles of law, the fundamental rights enshrined in the Constitution of the Islamic Republic of Pakistan, and preservation of justice and equity, the compromised judge or in this case the Enquiry Officer, must recuse himself. Thereby, the Enquiry Officer and the letters of the Headquarters have erred in law by allowing the Enquiry to continue. Such a situation is also envisaged in the Protection Against Harassment of Women at the Workplace Act, 2010, specifically, in Section 3(3) wherein the constitution of an Enquiry Committee is laid down and wherein it is stated that, *"In case a complaint is made against one of the members of the Inquiry Committee that member should be replaced by another for that particular case. Such member may be from within or outside the organization"*. It is evident that the Act does not allow a conflict of interest to arise and requires that the Enquiry conducted must be impartial. In our scenario, the Appellant expressed no confidence in the Enquiry Officer because he was also part of the same department as the accused and she had concerns that he may be colluding with his colleagues. That was sufficient ground for the Enquiry Officer to recuse himself and request that he be replaced with someone else, whether from

within or outside the organization. It is further submitted that such Enquiry Committees are considered as out of court proceedings, which are termed as Alternate Dispute Resolution. We may adapt the principles and practices of ADR to govern such matters. Wherein, if a party cannot agree on an adjudicator for their dispute, then both parties are requested to suggest their own adjudicators, who may in turn appoint a third adjudicator as Chairman of the proceedings so as to balance the scales of justice. Unfortunately, such was not done in this matter, and therefore, this Enquiry Report must be set aside for erring in law, violation of Article 10A of the Constitution of the Islamic Republic of Pakistan and for absence of justice.

19. These circumstances were followed by an office order dated 17.5.2016 whereby it was ordered in the light of Enquiry Report dated 13.4.2016, that the *“Competent Authority has ordered Termination of her services from Pakistan Television Corporation Limited. Accordingly her services are hereby terminated with effect from 13.5.2016”*. The Appellant challenged this order before this Court in Complaint No. 1(249)/2016-FOS and vide judgment dated 27.6.2016, this Court suspended the operation of the termination letter till an Enquiry is conducted upon the complaint of the Appellant against Respondents No. 1 & 2.
20. This was followed by an order signed by Kanwal Masud, General Manager, dated 8.6.2017, wherein entry of the Appellant in the premises of PTV-Home has been banned till further orders. She would be reporting for duty only when called by the competent authority. There has been no reason given for such a ban. In fact, this Court, vide order dated 30.6.2017, in Complaint No. 1(249)/2016-FOS upon observing that there was no cogent reason for banning the entry of the Appellant, ordered that PTV management allow the Appellant to serve her duties, wherein this ban was lifted. It is further observed, herewith, that to date, there has been no explanation given as to why the Appellant was banned from PTV Home wherein she is expected to work. The only outcome of this unfortunate scenario is that the Appellant has faced further harassment by the hands of the Management.

21. Yet, another letter was sent on 4.7.2017, addressed to General Manager, PTV (Home) ETV Centre, wherein it was stated in pursuance of this Court's order dated 30.6.2017 in Complaint No. 1(249)/2016-FOS, the Appellant has been allowed to serve her duties at her posting place in PTV Home – ETV Centre. Further mentioned that other than PTV Home, her ban on entry at other PTV Offices/Centers remains intact. There appears to be no justification or reason to this.
22. Pursuant to the disposal of Complaint No. 1(249)/2016-FOS on the basis of Enquiry Report submitted in this Court, an office order was passed, which is the subject matter of the application filed by the Appellant in this appeal. Whereby through office order dated 18.8.2017 wherein it is mentioned that the Appellant was terminated vide office order dated 17.5.2016, which was subsequently suspended following Judgment of this Court in Complaint No. 1(249)/2016 dated 27.6.2016. The order further goes on to state that this Court has disposed of the complaint of the Appellant and exonerated all accused nominated by her vide order dated 15.8.2017. Pursuant to which the Competent Authority has ordered termination of her services from Pakistan Television Corporation Limited, accordingly the Appellant was terminated with immediate effect. The Appellant has challenged this order as well as the original termination order dated 17.5.2016. It is evident from the order dated 15.8.2017 that this Court did not in fact exonerate any of the accused. It merely took cognizance of the fact that appropriate proceedings had not taken place of inquiry report which caused termination of appellant. The Complainant was further given an option to file an appeal if she wished to challenge the inquiry report. This is her subsequent appeal and it is evident that the inquiry report is not tenable in law, thereby its findings cannot be used as grounds for termination of the Appellant.
23. In light of the circumstances that have followed this case and the evidence submitted by the parties, there has as yet been no conclusive proof as to the allegation of the Appellant of physical or verbal assault against Respondents No 1 & 2. Yet, pursuant to which, the actions of the Respondents and, in fact, Pakistan Television Corporation Limited are

concerning enough to warrant further action.

24. It is evident that a complaint was filed by the Appellant, the date on which she did so is challenged as well as the process she applied for filing the complaint, yet the complaint itself was persisting. No charge sheet was issued under that complaint. In contrast, what may appear a retaliation of the Appellant's complaint, three charge sheets were issued against her, dated 21.11.2015, 9.12.2015 & 11.3.2016. The Appellant faced suspension twice, first under charge sheet 9.12.2015 & subsequently under charge sheet 11.3.2016, which was extended twice. There was no suspension under charge sheet dated 21.11.2015, and likewise, Respondents No. 1 & 2, did not face any suspension either. This was the first act of discrimination, which in turn led to a hostile work environment which an Enquiry Committee was required to prevent as under Section 4(3)(e) of the Protection Against Harassment of Women at the Workplace Act, 2010. The orders of suspension required the Appellant to remain present in the reception of PTV and await instructions. This appears to be a further act of harassment against the Appellant. This was followed by the transfer orders and its subsequent cancellation dated 4.2.2016 and 10.3.2016, respectively, for which no justification or reason seems available except to harass the Appellant. This was followed by charge-sheet dated 11.3.2016, immediately followed by suspension orders which were extended thrice with the same instructions to remain at the reception from 15.3.2016 till 22.3.2016. This was a continuation of the pattern of harassment that the Appellant has been subjected to. It has been clarified that the Inquiry Report dated 13.4.2016 to address the allegations in the charge sheet dated 11.3.2016 is not tenable in law, therefore the subsequent termination of the Appellant on the basis of that Inquiry Report must be void as well. The subsequent act of harassment was through the letter of 8.6.2017 wherein the entry of the Appellant was banned from the premises of PTV-Home, for no apparent reason. This Court set that letter aside on 30.6.2017, so a further letter was issued on 4.7.2017 which allowed the Appellant to serve her duties yet was restricted to PTV Home – ETV Centre. This further had no justification. These are the counts of

harassment perpetrated by the organization of PTV against the Appellant. Appropriate action required to be taken against the individuals who have authorized these acts of harassment. The first charge sheets and suspension orders were signed by Zia-ur-Rehman, Executive Manager (A&P). The unjustified transfer orders were signed by Respondent No. 5, with a further letter dated 10.3.2016 signed by Respondent No. 4. The following charge-sheets were further signed by Maqbool Shah, Controller, Administration & Personnel, followed by the suspension orders by the same. The entry bans were signed by Kanwal Masood, General Manager. The termination letters dated 17-05-2016 and 18-08-2017 were signed by Saeed Ather Controller Administration and personnel and Abdul Rashid Controller. It is ordered that action be taken against these individuals and the penalty of withholding of promotion be imposed on them for a period of two years under Section 4(4)(i)(b) of Act of 2010.

25. Further, the Appellant be compensated with a fine amounting to Rs. 100,000 after recovery of it from the respondents and officially mentioned in Para 24 of judgment under Section 4(4)(i)(d) of Act of 2010. Any termination of appellant's services be rendered as void.
26. Ministry of Information is directed to investigate on the Department of Administration and Personnel to root out the cause of this perpetual harassment against the Appellant and take appropriate action against the conspirators including and besides respondents in the matter.
27. Issue letter to Managing Director of Pakistan Television Corporation Ltd Islamabad to implement the judgment and report to this forum within 15 days of receipt of judgment.
28. Appeal disposed of accordingly.
29. Parties be informed accordingly.

**JUSTICE (R) YASMIN ABBASEY**  
**Federal Ombudsman**

