



FEDERAL OMBUDSMAN
For Protection against Harassment of Women at Workplace
Islamabad

J U D G M E N T

1. Complaint Number: 1(274) / 2016-FOS (Reg)
2. Date of Institution: 09-06-2016
3. Date of Decision: 29-08-2017
4. Complainant: Mst. Raheela Mustafa
Incharge Legal Department
Oil and Gas Regulatory Authority
Blue Area, Islamabad
5. Opponent: Moazam Hussain Chaudhary
ED (Complaint)
Oil and Gas Regulatory Authority
Blue Area, Islamabad

Justice (R) Yasmin Abbasey,**Federal Ombudsman:****Complaint No. 1(274)/ 2016-FOS.**

1. Complainant Mst. Rahila Mustafa who is Deputy Registrar in OGRA has filed this complaint against its Executive Director (complaints) namely Moazam Hussain Chaudhary stating that with reference to her job of conducting appeal hearings and public hearings of Authority at Islamabad and outstation she has to travel along with other officers of OGRA and authority members. Authority has nominated one Sohail Ahmed Tariq, the then ED (Complaint) and opponent the then ED (CNG) to assist the Authority during such hearings. These two officers use to accompany the Authority in out station hearings. In connection with job and assignment to handle huge backlog of appeal cases and to draft decisions of authority complainant had to sit with Sohail Ahmed Tariq along with his department for discussion and preparation of draft as complainant feel Sohail Ahmed Tariq as most trusted person in office. This team work was not acceptable to some persons in OGRA including opponent as he use to talk about complainant and Sohail Ahmed Tariq with highly sexually colored remarks relating to their outstation visits, stay in hotel and traveling together.
2. In April 2014 complainant had gone along with Authority of OGRA, opponent and Executive Director Finance Mst. Misbah Yaqoob also were in team to attend schedule public hearing at Karachi. During stay at Karachi on 29-04-2014 opponent through SMS offered her to visit sea view / beach at around 11:45 hrs at night. According to complainant she was shocked to hear that message and refused, but at the same time she reported this sending of SMS by opponent to Sohail Ahmed Tariq who at that time was in Saudia Araia for performance of Umrah. He advice her to ask that who else is going with them and also to refuse offer. On query from opponent as who else is going along with them on beach, opponent named Mst. Misbah Yaqoob, but on call to Mst. Misbah Yaqoob by complainant she flaterly refused to have received any offer or intent to go along with opponent on sea side. Again this conversation in between complainant and Mst. Misbah Yaqoob and thereafter with opponent was also transferred by complainant to Sohail Ahmed Tariq through SMS in Saudia Arabia. On next day morning when complainant talked with opponent about his malicious and indecent offer at night he ignored by laughing and said it was just a joke.

3. Again in May 2014 when in connection with her schedule hearing with Authority at Lahore she had to go to Lahore. Opponent offered her to accompany with him by car and also offered to have kulfi at Gujranwala. This offer again was refused by complainant and this second offer of opponent again was informed by her to Sohail Ahmed Tariq who still at that time was in Makkah for performance of Umrah. According to complainant being close friend to each other she took guidance from him.
4. According to complainant both these messages sent by opponent on 24-04-2014 and in May 2014 were deleted by her from her mobile phone with a fear that someone else might not read them. But according to her they are still available with Sohail Ahmed tariq, and those will be submitted before this forum during hearing. This constant refusal by complainant annoyed opponent so much that on return of Sohail Ahmed Tariq from Makkah opponent pointed out to him that complainant was so reserved with him and had badly ignored him. These views of opponent were highly intolerable for her to hear that what opponent was thinking about her. Here again Sohail Ahmed Tariq advised her to be patient and did not confront with opponent as he is clever and may damaged her reputation.
5. Opponent is habitual of expressing defaming words against officers and officials of OGRA especially ladies who did not go with his wishes. Due to his relationship with high ups of Authority he tried to create hurdles in routine official matters of officers and officials by damaging their character, performance and personality. Same act is being done by opponent with complainant and Sohail Ahmed Tariq for last two years, but same were ignored for sake of their job, respect and dignity. But recent cause of action compelled complainant to file this complaint when opponent attacked on their character by narrating their relationship with sexually suggestive remarks spreading rumors about complainant and Sohail Ahmed Tariq private life and fabricating facts according to his own way in front of other colleagues in order to scandalize, insult and humiliate them in office and family. Opponent has sabotage her carrier as ED Admin and managed to take back charge of Registrar from her and has deputed one of his favorite on post. Hence this complaint.
6. Opponent in his defense has tried to challenge jurisdiction of this forum by saying that under law for Protection against Harassment of Women at Workplace Act 2010 when complainant has been provided an opportunity to file her complaint before inquiry committee constituted within the institution under Act of 2010,

therefore proper course for complainant was to avail that remedy and approach first forum instead of directly approaching this office of Federal Ombudsman. His whole defense consisting of number of pages is based on same legal issue, however he has denied allegations leveled by complainant against him of making any offer on two alleged dates and of spreading rumors against complainant and Sohail Ahmed Tariq. Appointment, posting and transfer of any employee of OGRA falls within jurisdiction of his authority and opponent has no role in it

7. Complainant has examined herself on oath and two more witnesses, whereas Zain-ul-Abideen Qureshi has been produced on behalf of opponent. Opponent did not examine himself on oath stating that all documents filed by him are sufficient to prove and contradict allegations leveled by complainant being false and motivated.
8. Before going into merits of case I will like to clear the legal issue raised by opponent that under law complainant has to exhaust the first available remedy by approaching to Inquiry Committee constituted under Act 2010 within the institution. As she failed to avail the same, therefore present complaint is not maintainable. To support his contention he has referred number of case law, but that are not applicable in the present case. By virtue of Section 8 of Act 2010 for Protection against Harassment of Women at Workplace every employee has been given an option in case of any act of harassment against her / him either to file complaint before Ombudsman or the Inquiry Committee. Hence this complaint is maintainable.
9. So far merits of case are concerned, as per statement of complainant beside rumors and use of defamatory words against complainant and Sohail Ahmed Tariq opponent on 29-04-2014 and in May 2014 had sent two text messages to her offering her to go on beach at odd hours at night and to travel with her from Lahore to Islamabad with offer to have kulfi at Gurjanwala respectfully which were acts of harassment by him towards her. It is stated that in order to protect her dignity and respect she kept mum and tried to restrain opponent by her constant refusal to his offers, but recent cause of action compelled her to file complaint against opponent when he made her character assassination by spreading sexually suggestive remarks about her official working including official traveling and stay at hotel with Sohail Ahmed Tariq among other employee of OGRA. To support her first two allegations of April and May 2014 complainant beside herself has produced two more witnesses namely Sohail Ahmed Tariq and Abida

Shehzad. According to complainant text messages sent by opponent in April and May 2014 in order of fear that someone else may not read them have been deleted by her from her mobile phone, but before their deletion she sent them to Sohail Ahmed Tariq who at that time was in Makkah for performance of Umrah and had also taken guidance from him. Those text messages will be produced at time of hearing before this form, but complainant neither in her statement nor her witness Sohail Ahmed Tariq to whom those text messages of opponent were sent, have been able to produce them to support contention of complainant. Although in his statement in chief Sohail Ahmed Tariq has admitted his frequent conversation with complainant and also that complainant has informed him about text messages sent by opponent to her and advice given by him to complainant, but in his cross examination he has shown his ignorance as to the conversation through messages happening in between him and complainant which have been produced as exhibit C/4 to C/7 stating that "I do not know that when these screen shots produced as C/4 to C/7 were taken. And text messages produced as exhibit C/4 to C/7 are not available in my phone". In his further statement he deposed that, on 29-04-2014 perhaps at about 11:50 pm complainant had called as well as sent text messages to me at Esha prayer time and he might had also called her on whatsapp". This conduct of complainant's witness Sohail Ahmed Tariq shows that he himself is not sure about any text message sent by complainant to him or any conversation of that particular day, because in his further statement he had totally denied to had seen those text messages sent by opponent to complainant on 29-04-2014 and in May, 2014. It is also very surprising that person who has been directly affected by any act of opponent instead of keeping proof of it deleted them from her mobile phone just because of fear that someone might not see them which may affect her reputation, but has shown so much confidence on her colleague to sent those messages to him without any fear that there also those text messages can be seen by anyone. And the person on whom she had trusted has flatly refused to have ever seen those alleged text messages of 29-04-2014 and of May, 2014. Anyhow in further support of offer of opponent through text messages and particularly at Karachi an affidavit of one Misbah Yaqoob at Page 26 of file has been filed. Again it is very strange to see that this complaint was filed by complainant on 09-06-2016, whereas affidavit of Mst. Misbah Yaqoob bears date of 31-05-2016 addressing to Federal Ombudsman for Protection against Harassment of Women at Workplace Islamabad. How this statement of Mst. Misbah Yaqoob was taken before filing this complaint has not been

explained by complainant. Even otherwise to prove offer of opponent on 29-04-2014 Mst. Misbah Yaqoob who is said to be in team of OGRA who visited to Karachi and with whom complainant had confirmed that whether opponent had also offered her to go on beach has not been produced for purpose of cross examination. Mere filing statement in chief without putting person in witness box to testify him or her through cross examination has no value, because truth of his or her statement can only be judged when person is processed through cross examination.

10. It is also noteworthy that incident took place in April and May 2014 but present complaint has been filed in June, 2016. Although under Act of 2010 no specific period of filing complaint on ground of harassment has been given, but even then in circumstances of each case complainant has to explain reason behind it, because in present case admittedly even after incidents of April and May 2014 complainant had invited opponent in marriage of her brother in September, 2015. If opponent was so much risk to her reputation, dignity and honor apparently I do not find any justification of inviting opponent by complainant in such private family gathering.
11. Lastly it is stated by complainant that recent cause of action arose when opponent started spreading rumors in office, assassinating her character and using sexually suggestive remarks in connection with relation to her with Sohail Ahmed Tariq except raising her plea in para 8 of her complaint. These rumors alleged to have been spread by opponent neither have been disclosed by complainant in his statement on oath nor any evidence has been produced to support allegations leveled by her nor any time of spreading such rumor has been given by her to justify filing of this complaint at this stage.
12. In reply to all these, contention of opponent is that no such incidents as alleged against him by complainant had ever happened. In fact person behind this complaint is Sohail Ahmed Tariq who had grudge with him because of his early promotion at every stage then to Sohail Ahmed Tariq. Opponent by producing certain documents which have not been rebutted by complainant and Sohail Ahmed Tariq have been able to prove that although opponent joined OGRA after Sohail Ahmed Tariq but he always get promotion in every cadre before him which were challenged by Sohail Ahmed Tariq and on failure from competent authorities in those litigations complainant has been set up by him to damage his reputation and service. It is also stated by opponent that on query from NAB when he has

presented certain documents to NAB authorities wherein name of Sohail Ahmed Tariq was also there he became announced and that is cause of filing present complaint. This statement of opponent although has been denied by Sohail Ahmed Tariq, but letter of 06-01-2017 at page 51 of file proves that Sohail Ahmed Tariq Executive Director in OGRA was called by NAB in case as accused.

13. All these factors show that motive behind filing this complaint by complainant is not an act of sexually harassment by opponent towards her. She has miserably failed to prove it. It appears that there are some other factors which forced her or she has been forced to file this complaint against opponent.
14. In view of above complaint is hereby dismissed having no merit.
15. Announced in open court.

JUSTICE (R) YASMIN ABBASEY
Federal Ombudsman