



FEDERAL OMBUDSMAN
For Protection against Harassment of Women at Workplace
Islamabad

J U D G M E N T

1. Appeal Number: 1(44)/2012-FOS
2. Date of Institution: 21-12-2012
3. Date of Decision: 22-04-2012
4. Complainant: Saadia Sibtain
Ex-Receptionist/Security Supervisor,
PEC, Islamabad.
5. Respondent: Col. Daud Pervaz Malik
Sr. Manager (A&P), PEC, Islamabad.

Yasmin Abbasey,

Ombudsman:

This matter arises out of an appeal No. 1(44)/ 2012-FOS

1. This appeal has been preferred against the decision of inquiry committee dated 21-11-2012. It is alleged by appellant that respondent who was a Senior Manager (Admn & Personnel) in Pakistan Engineering Council (PEC) used to harass her for having sexual favour and in course of that used to make attempts as has been narrated in para 2 of her appeal which are reproduce as under:
 - If your husband is abroad then how do you live here?
 - Tried to touch me while giving/taking anything like paper/pencil.
 - Trying to put hands on appeallant shoulder for no apparent reason.
 - Asking me to stand beside his chair and asking same irrelevant questions repeatedly.
 - Staring at appellant with strange ways.
2. As per her statement she complained her grievance before inquiry committee of PEC but decision goes against to her. It is alleged that members of inquiry committee were biased against her and they ignoring the true facts placed before them acted as

companion of opponent and gave finding in his support.

3. In reply opponent has filed his defence wherein he has been denied all the allegation made against him. It is stated by him that inspite of placing 14 witnesses before inquiry committee applicant was unable to prove her case as non of the witness had support her version.
4. It is stated that she was not dedicated to her work and for that she was counseled two three times but as she did not improve her self therefore her services were terminated on 21-6-2012 and it is thereafter as a counter blast she moved an application before inquiry committee of PEC on 13-7-2012 after 3 weeks of her termination.
5. It is further stated that during the pendency of the inquiry committee complaint has leveled false allegation against the member of inquiry committee that by breaking upon the lock some documents of inquiry committee have been misplaced from there, as such the separate inquiry was conducted in that regard and the allegation was not found correct.
6. He has further stated that in order to defame him appellant has also placed the same matter of alleged harassment by him before the National Assembly Standing committee on Human Rights and she also got published such news in different

newspapers. She also gave press briefing on T.V channels levelled false allegation against opponent. It is stated by opponent that appellant act has seriously affected his reputation and he was defamed among his colleagues, friends and family members.

7. Her learned counsel for the parties and perused the record.
8. As per record appellant was appointed as receptionist/ security supervisor in PEC Headquarter Islamabad. However it was clarified therein that her probation period is of one year and during that period her service can be terminated by the competent authority without notice and assigning any reason. Record further reveals that from 02-01-2012 till the date of her termination on 21-6-2012 twice notices were issued to her for her negligent act while performing duties. Finally her service was terminated on 21-6-2012 and it is thereafter on 13-7-2012 an application to convener Anti-harassment committee PEC Islamabad was moved after 3 weeks of her termination.
9. Term employee as defined in the Protection against Harassment of Women Act 2010 is relevant for the purpose of adjudication of this appeal. By Section 2 (f) of the Act 2010 'employee' means a regular or contractual employee whether employed on daily, weekly monthly or hourly basis, and

includes an intern or an apprentice.

10. By virtue of Section 4 of Act 2010 the inquiry committee constituted in organization on receipt of a complaint shall proceed in accordance with law and procedure prescribed under the Act.
11. Admittedly complaint was moved by appellant after 3 weeks of her termination therefore the question will be that whether after her termination appellant still falls within the definition of employees as provided in the Act of 2010 and her complaint before the convener after 3 weeks of her termination can be entertained by them. Apparently after termination a person seized to hold the status of employee of an organization, however record reveals that inspite of that committee was constituted and inquiry was held.
12. I have gone through statement of appellant and her witnesses produce before the inquiry committee. Although appellant in her complaint as well as in her appeal filed before this forum has tried to prove the allegation leveled against opponent of harassment for sexual favour but in her cross examination she has admitted that the office of opponent Sr. Manager (A&P) consist of glass compartment from 3 sides and every thing that happened in the office was visible, and almost all the office

situated in basement where the office of opponent is situated consists of glass compartments.

13. Record further disclosed that appellant in her statement in chief as well as in her cross examination has not been able to establish satisfactory proof to make out a case against opponent. Even Engineer Maryam Zubairi on whom she has much relied, and said to had discuss the issue faced by her due to opponent has also not supported her version and in specific question put to her in cross examination Engineer Maryam Zubairi has categorically stated that appellant never discussed or complained to her against opponent about the allegation of sexual favour leveled against him. The rest of other 18 witnesses have also not supported the allegation leveled by appellant and had shown their ignorance. They had also denied that any such incident was ever discussed by appellant with them.
14. From the perusal of record it seems that all the attempts made by appellant either it may be by moving an application to the convener of inquiry committee of PEC or application to the Supreme Court of Pakistan or to National Assembly Standing Committee on Human Rights, all were made after her termination. No such complaint was ever made by her during the continuation of her service, and in view of above I am of the view that attempts made by the appellant are nothing but a

counter poise against her termination. As discussed above this appeal is not maintainable as appellant after her termination from service was no more an employee of an organization i.e. PEC. In view of above discussion appeal is hereby dismissed.

YASMIN ABBASEY
Ombudsman