



FEDERAL OMBUDSMAN
For Protection against Harassment of Women at Workplace
Islamabad

J U D G M E N T

1. Complaint Number: 1(293) / 2016-FOS (Reg)
2. Date of Institution: 17-10-2016
3. Date of Decision: 31.03.2017
4. Complainant: Mst. Sadia Zaman
Record Sorter
National Insurance Company Limited
North Zone
Islamabad
5. Opponent: Syed Abid Ali Shah
General Manager
Zonal Head
National Insurance Company Limited
North Zone
Islamabad

Justice (R) Yasmin Abbasey,

Ombudsman:

Complaint No. 1(293)/ 2016-FOS.

1. Complainant Mst. Sadia Zaman, Record Sorter in National Insurance Company Islamabad has filed this complaint against General Manager Abid Ali Shah of same company alleging that he is continuously harassing her for last about three years and had an evil eye on her. He used to give pathological and immoral offers to complainant. In order to avoiding any controversy complainant always turned out such offers, but that encouraged opponent Syed Abid Ali Shah and he has started making hurdles in clearing her medical bills with active connivance of Chief Medical Officer alleging them to be forged. All this was done by opponent just to persuade complainant to accept his unethical and illegal demands. Therefore complainant approached to union of institution. Office bearers of union along with Muhammad Rafiq contacted opponent and tried to restrain him to harass complainant by his illegal and unethical acts, which annoyed opponent.
2. It is stated that when opponent came in knowledge that complainant intends to file complaint before Federal Ombudsman and Muhammad Rafiq and Muhammad Saeed will be her supporting witnesses he with Zonal Head managed to issue explanation letters in name of complainant and her witnesses named above in order to restrain complainant to appear before Federal Ombudsman. It is prayed that action be taken against opponent Syed Abid Ali Shah so that complainant can continue her service to fulfill needs of her family.
3. Opponent in his defense has stated that present complaint is not maintainable, as this issue has already been decided by inquiry committee on 14-10-2016. Complainant in reply to explanation letter issued to her in respect of his misbehavior and tempering remarks of

CMO in her medical bill has come up with issue of harassment in against to opponent. Before explanation letter such allegations of sexual harassment were never brought before management of Head office or Zonal office. Prior to 05-08-2016 she never filed any complaint on ground of harassment. Stamp of fax out on application dated 22-06-2016, addressed to CEO has been illegally put by complainant on its back just to mislead this forum that she had moved such application to CEO. Fax record of company show that no fax was sent on that particular day to Head office, however on inquiry fax operator informed that his stamp was illegally and unauthorizedly affixed without his knowledge because he signs his name when he transmit document. Complaint dated 05-08-2016 was not sent to Federal Ombudsman, but in fact it was addressed to CEO of the company and that complaint has been disposed of by competent authority of company after due process of law.

4. Complainant has leveled allegations of sexual harassment just to cover up her misconduct and divert attention of the management from real issue of her misbehavior and tempering of medical bills. Complaint may be dismissed.
5. According to complainant opponent is harassing her for last three years after joining on post. For first time she moved an application on 04-04-2016 to General Secretary North Zone Islamabad and then on 15-06-2016 with same state of allegation that complainant is unnecessarily interfering in her personal affairs and is demanding immoral relationship with him. Both these applications as per statement of union officers were taken up by them by approaching to opponent and advising him to improve his behavior. Third application is said to have been moved by complainant to Chief Executive Officer National Insurance Company limited Head office Karachi on 22-06-2016 through Zonal General Secretary North Zone Islamabad which as per record at Page 139 and 140 seems to have been dispatched to General Secretary of National Insurance Company Limited

and ICA employees union Karachi for placing same before higher authorities for proper action. Any approach of complainant by moving direct applications to CEO of National Insurance Company has been denied by opponent. According to opponent he did not receive any such application and it is for first time he came in knowledge of it on 03-08-2016 in reply to explanation letter issued to complainant on 28-07-2016.

6. On statement of allegation mentioned in explanation letter dated 28-07-2016 and complaint moved by complainant on 05-08-2016 inquiry was conducted by management of National Insurance Company and in its report dated 14-10-2016 they have exonerated opponent Syed Abid Ali Shah from charges of sexual harassment, whereas complainant along with Muhammad Shabir, Muhammad Saeed and Muhammad Rafiq Raja were found guilty of tempering / maneuvering medical bills of Sadia Zaman, and pressurizing CMO North Zone for approving forged and tempered medical bill. In result of this inquiry report Manager HR of National Insurance Company on 18-10-2016 had issued show cause notice to complainant that why disciplinary action should not be taken against her on charge of misconduct.
7. As to whether show cause notice issued to complainant of 18-10-2016 is in accordance to evidence placed by parties on record and whether allegations leveled by complainant in against to opponent of sexual harassment are true or false I have gone through contents of inquiry report of 14-10-2016 which somehow also contains statement of parties in proceedings and witnesses produced by them. Though according to management of National Insurance Company they did not receive any complaint of complainant said to have been moved on 22-06-2016, but anyhow after receiving reply to explanation letter on 03-08-2016 and application of complainant dated 05-08-2016 issue of sexual harassment was also examined during inquiry proceedings.
8. Apparently except complainant's sole statement and that of union

members to whom show cause notice was also issued by management of National Insurance Company there is no other evidence to support contention of complainant with reference to sexual harassment because complainant has failed to produce any dispatched slip or postal authority slip in proof of moving these three applications on 04-04-2016, 15-06-2016 and 22-06-2016 to management or competent authority of National Insurance Company. Anyhow after setting this issue apart for time being if I come to issue of allegation leveled against complainant of tempering / maneuvering comments of Chief Medical Officer on report collection form dated 10-05-2016 then also I found that no concrete evidence has been placed by management of National Insurance Company or by opponent in proof that in fact fluid alleged to have been put on comments of CMO was an act of complainant. Although opponent has placed number of witnesses and particularly CMO Dr. Farhana Masood, who during inquiry proceedings has stated that complainant in a meeting with General Manager had admitted that putting of fluid on remarks of CMO was her fault and she apologize for the same but while making her statement before this forum it is admitted by her that during period when medical bill was in process it remain in custody of department. She further admitted that fluid was put on medical bill of complainant when it was in custody of department.

9. Amir Nawaz computer officer who had processed medical bill of 10-05-2016 has shown his ignorance to have any fluid on that bill stating that "according to him while processing said bill he did not notice that whether remarks of CMO were erased or not, therefore he does not know as to who erase remarks. Whereas Mst. Ayesha Farooq Manager HR and Admn has come up with very different story during inquiry proceeding that in her absence from office certain office bearers of the union had taken medical bills of Sadia Zaman for obtaining photocopy of same they were thereafter again placed back in her office. By making this statement Mst. Ayesha Farooq Manager HR and Admn wants to prove that fluid was put

by complainant with help of office bearers of the union, but neither opponent nor Mst. Ayesha Farooq have been able to clarify then in spite of such big incident of removing of documents illegally why in her complaint moved on 21-06-2016 she has not narrated this fact or made any prayer for taking any action against them and had restrained herself only to the extent of misbehavior of complainant and pressure put by complainant for early approval of her medical bill. Statement filed by Mst. Ayesha Farooq before this office of Federal Ombudsman is also silent about taking away medical bills of complainant by office bearers of union. This grave omission of Mst. Ayesha Farooq doubts her testimony because even thereafter neither during inquiry proceeding nor before this forum any such question of illegal removal of medical bill of complainant by officer bearers of union who came as witness and on whom charge of misconduct has alleged was ever put to them. Mere statements by CMO Dr. Farhana Masood, Mst. Ayesha Farooq or by opponent that after taking notice of putting fluid on remarks of CMO when General Manager of management was contacted complainant admitted before him that she erased those remarks, in circumstances of case cannot be taken as correct because Mst. Ayesha Farooq herself in cross examination before this forum has admitted that at the time when medical bill was tempered it was in custody of management of NICL. Even otherwise it also cannot be ignored that all opponent's witnesses produced by him are subordinate to him and in such circumstances their interest or favor to opponent cannot altogether be ignored because opponent is the person who writes their ACRs.

10. It has also been brought on record that by order dated 09-09-2016 second advance basic salary paid to Muhamamd Shabir, Raja Muhammad Rafiq and Muhammad Saeed were ordered to be recovered from impending salary of employees but subsequently on approach of them to NIRC it was returned back.

11. In view of the evidence placed on record by parties I found that allegation leveled against complainant of erasing remarks of CMO on medical bill of 10-05-2016 has not been proved by opponents or by the management of National Insurance Company. So far allegation of sexual harassment is concerned there is also no concrete evidence to support this allegation. Although complainant is said to have moved application to union office of National Insurance Company and to CEO of the company but in absence of any specific proof of their dispatch to competent authority except of 05-08-2016 allegation made in reply to explanation letter does not have any weight therein, because text messages of complainant as produced by opponent sent to him after alleged incident or during period when opponent is alleged to be harassing her or making immoral offers does not reflect in these text messages. No such immoral offers or harassment as alleged are appearing therein. Even otherwise if according to complainant she was under so much pressure, she has not been able to explain that why she was so frequently sending text messages to opponent without any reasonable cause. These text messages have also not been denied by complainant. Further in these text messages complainant seems to have been complaining against some ladies to opponent who are creating misunderstanding in between complainant and opponent.
12. After going through record I come to the conclusion that neither it is case of sexual harassment as alleged by complainant nor of tempering or erasing remarks of CMO as alleged against complainant, but is behavior issue of parties which has developed to this extent because of misadministration and mishandling this issue by management of National Insurance Company which has divided employer and employee in two different groups, rival to each other and taking benefit of their position in office they tried to undermine each other with no reasonable cause on minor issues.

13. I hereby direct competent authority of National Insurance Company to come forward and bring both parties in the matter on table to resolve issue with discussion so that in future such case may not again come forward and postponed any further inquiry in the matter on show cause notice issued to complainant on 18-10-2016 till matter is resolved. In these terms complaint is hereby disposed of.
14. Issue letter to Competent Authority of National Insurance Company to intervene in the matter and resolve issue.
15. Announced in open court.
16. Parties be informed accordingly.

JUSTICE (R) YASMIN ABBASEY
Federal Ombudsman