



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

J U D G M E N T

1. Complaint Number: 1(210) / 2015-FOS (Reg)
2. Date of Institution: 28.09.2015
3. Date of Decision: 24.11.2015
4. Complainant: Dr. Saima Mumtaz
Lady Medical Officer,
Pakistan Railways,
Multan.
5. Opponent: Zafar Ullah Kalwar
Divisional Superintendent,
Pakistan Railways,
Multan.

Justice (R) Yasmin Abbasey,

Ombudsman:

Complaint No. 1(210)/ 2015-FOS.

1. Complainant Dr. Saima Mumtaz serving in Pakistan Railways Multan as Medical Officer under the charge of Divisional Medical Officer has filed this complaint against opponent, Divisional Superintendent, Pakistan Railways Multan.
2. It is alleged by complainant that on 05-08-2015 she received a call of her husband at Lahore to reach forthwith in connection with some family dispute. Complainant applied two days casual leave before opponent and also intimated DMO on phone regarding her emergency, who telephonically allowed her to leave. Complainant proceeded to Lahore but when she was near Sahiwal, Waheed PA to opponent intimated about non-sanction of her leave. Complainant at once sent SMS to opponent requesting him to sanction her leave. As personal matter of complainant was not solved within two days, therefore, she applied one more casual leave which was forwarded to DMO. Complainant's husband also

requested opponent on 06-08-2015 for grant of leave but he was threatened with dire consequences.

3. On 08-08-2015 when complainant was coming back from Lahore to Multan through Musa Pak/116 Down train in business class compartment, opponent, who was also travelling in the same train in an adjacent compartment to complainant, at about 08:45pm came in complainant's compartment and inquired from her about her journey pass. Complainant showed her purchased ticket which was retained by opponent. He further told her that as she is on leave without sanction, therefore, she would face the consequences. Complainant tried to explain the circumstances of her travel and requested for sanction of leave, but all of sudden opponent tried to embrace her where upon she slapped opponent, thereafter opponent left the cabin of complainant with threat of dire consequences.
4. In result thereof, two explanation letters dated 13-08-2015/15-08-2015 and 29-08-2015 were issued against complainant on baseless ground with malafide motive. Although complainant

had a right to protest against misbehavior and sexual harassment attitude of opponent but she had not made any complaint on account of her family prestige and honor. In reply to explanation letter, complainant warned opponent to withdraw his explanation letter, otherwise complainant would be constrained to file complaint against him under the law for Protection against Harassment of Women at Workplace Act 2010. Instead of withdrawing explanation letter opponent got issued a transfer notification date 25-08-2015 of complainant from office of DMO to MS Railway Hospital Multan through Chief Personal Officer, Pakistan Railways Headquarter Office Lahore. Opponent deducted three days salary of complainant which is also a proof of satisfying his thirst of revenge.

5. Complainant has filed a complaint on 29-08-2015 before Chief Executive Officer, Pakistan Railways Headquarter Lahore whereon to the knowledge of complainant a secret Inquiry has been initiated against complainant for her alleged misconduct of 08-08-2015. Proceedings of that Inquiry were never communicated to complainant.

6. Opponent in his reply has stated that he has called explanation of complainant for leaving Headquarter without proper permission and travelling without pass. As unsatisfactory reply came from complainant, therefore, matter was reported to Headquarter. In retaliation of above said report, complainant approach to Competent Authority, Headquarter Office Lahore by imposing baseless allegation of sexual harassment against opponent and made a demand to inquire the matter through Inquiry committee under the law for Protection against Harassment of Women at Workplace Act 2010. Matter was referred to Inquiry committee already in existence in Pakistan Railways. During pendency of case before Inquiry committee, complainant has approached to this forum which amounts to double investigation of case at two different forums on the same issue. In view of above it is requested by opponent that as the matter is under investigation before Inquiry committee of Pakistan Railways, therefore, this complaint be filed.
7. Record reveals that issue relating to this matter cropped up on 05-08-2015 when complainant just after moving leave

application for two days and without waiting for its grant has proceeded to Lahore. According to complainant on the way from Multan to Lahore, PA of opponent had informed about non-sanction of leave. On this information complainant requested opponent through SMS and her husband had also rang to opponent requesting for grant of leave but both the times it was not considered. However on 08-08-2015 when complainant was returning back from Lahore to Multan through 116 Down Train in business class compartment, her travelling documents were checked by opponent. According to complainant she had shown her purchased ticket which was retained by opponent. At the same moment opponent also enquired from her about leaving of office without sanction of leave. As per statement of complainant when she was requesting opponent to approve her leave opponent tried to embrace her. On the contrary case of opponent is that beside leaving office without proper approval she was also traveling from Lahore to Multan without any service pass nor was having any ticket with her and it is because of that when complainant was insisting to ignore journey pass or ticket for

travelling from Lahore to Multan, opponent left it at the discretion of ticket checker to deal with complainant as per rules. To corroborate his statement opponent has got examined certain witnesses out of them statement of STE Muhammad Sharif is material who has categorically stated that on the direction of DS when he had gone to the compartment of complainant she was not having any ticket or pass. It is further stated by him that when he asked complainant to pay Excess Fair Ticket (EFT) for issuance of ticket to her, she refused to pay the amount and approached to DS-the opponent but who also directed him to proceed in accordance with rules. Instead of that complainant had not paid amount. Statement of this very witness Muhammad Sharif that when he offered to pay the amount of Excess Fair Ticket (EFT) from his own pocket for complainant she also refused the same, has not been denied by complainant. It is further to be noted that rest of the witnesses produced by opponent have also supported the statement of Muhammad Sharif with reference to of not having any journey pass or ticket in possession of complainant while travelling from

Lahore to Multan. According to opponent because of the two misconducts discussed above, explanation letters were issued to complainant on 13-08-2015/15-08-2015 and 29-08-2015 and it is in reply to these explanations issued, complainant for the first time on 22-08-2015 complainant has come forward with the issue of sexual harassment stating that while talking on journey pass in 110 Down Train when opponent tried to embrace her she slapped opponent and thereafter he left her cabin after extending threats of dire consequences. When late reporting of incident said to had happened on 08-08-2015 was objected by opponent, complainant has come up with the plea that she has not reported it earlier to save family prestige and honor, but it is also an admitted fact that this is not the first time when complainant has taken this plea of sexual harassment towards her. In 2008 when Medical Superintendent, Pakistan Railways Hospital Multan on 13-08-2008 had reported against complainant to Chief Medical and Health Officer PR Headquarter Office Lahore, in reply beside replying the allegations leveled against her she has also made same

nature of allegation against Dr. Gardezi, Medical Superintendent, PR Hospital Multan. Record further shows that in April 2014 also dispute in between complainant and one Dr. Tasneem Qureshi had also gone to the extent that FIR's were lodged by both of them against each other and finally matter was compromised in court of law. Report of SHO District Multan with reference to the FIR lodged by complainant and Dr. Tasneem Qureshi against each other has also been placed on record at page 159 of file. Observation of court with reference to the FIR lodged by complainant have also been incorporated in this report dated 12-04-2014 which is also in against to the complainant. I do not want to go in detail of that report but contents of the same are relevant to observe the conduct of complainant while performing her duty.

8. According to complainant although she was holding purchased ticket while travelling from Lahore to Multan but with malafide intention opponent had harassed her. To discard the statement of complainant opponent has produced

a letter dated 19-10-2015 written by Divisional Commercial Officer, Pakistan Railways Lahore, contents of the same are produced as under:-

“With reference to your letter cited above it is intimated that no AC/B class ticket was issued / reserved Ex: LKP to MUL on 08-08-2015”.

9. A note of SM Kot Lakhpat Station dated 18-10-2015 supports the letter of DCO Lahore that:-

“As per record of D.T.C book no B.P.T Business class E.F.T ticket issued. No P.C.T ticket issued at the time of 116 Down dated 08-08-2015.”

10. Contents of both these letters have not been denied by complainant however in her written argument filed on 06-11-2015 she has tried to give number of ticket purchased by her from Lahore to Multan as Ticket no. 001599 but neither ticket has been produced by complainant nor any corroborative evidence has been produced by her to support her contention.

11. Record further shows that after filing reply to the explanation letters issued to her on 13-08-2015/15-08-2015 and 29-08-2015 inquiry committee was constituted to probe into the matter alleged by complainant. Although according to complainant she was never communicated about the proceeding of the inquiry committee but report as placed on record show the presence of complainant during the Inquiry proceedings. During Inquiry proceeding she has raised objection on Mst. Ambreen Zaman being member of Inquiry committee but as no reasonable ground was shown by her, therefore, her request was turned down by Chief Executive Officer vide letter dated 19-10-2015. An appeal had been preferred by complainant against order of 19-10-2015 but that appeal has not been brought on record.
12. In the light of above discussion and document produced by the parties on record I am of the view that complainant has not been able to prove her case and this complaint seems to have been filed by her to save her from the charges leveled against her through explanation letters dated 13-08-2015/15-

08-2015 and 29-08-2015 and as she has no satisfactory reply to them, therefore, she tried to hide herself by leveling allegation against opponent of sexual harassment. In view of above I do not want to interfere in the findings of Inquiry committee dated 27-08-2015, the same are upheld. Complaint is hereby dismissed.

13. Parties be informed accordingly.
14. Announced in open court.