



FEDERAL OMBUDSMAN
For Protection against Harassment of Women at Workplace
Islamabad

J U D G M E N T

1. Appeal Number: 1(282) / 2016-FOS (Reg)
2. Date of Institution: 21.07.2016
3. Date of Decision: 27-09-2016
4. Appellant:

Sarwat Bilal
D/o Bilal Ahmed
Associate Professor
MS Department,
Bahria University
Islamabad Campus
Islamabad
5. Respondents:
 - i. Dr. Nadia Tahir
Head, Management Sciences
Department, Bahria University
Islamabad Campus
Islamabad
 - ii. Mr. Syed Hasan Mustafa
Director, Islamabad Campus
Bahria University
Islamabad Campus
Islamabad
 - iii. Mr. Imtiaz Khan
Director Human Resource,
Bahria University
Islamabad

Justice (R) Yasmin Abbasey,

Ombudsman:

Appeal No. 1(282)/ 2016-FOS.

1. Brief facts of the case are that on 14-01-2016 a complaint was filed by Mst. Sarwat Bilal the appellant against respondent no. 1 and 2 to Dean of Bahria University (BU) alleging that the advises as given by respondent no. 1 to her with remark that you are beautiful and smart women and should socialize with male colleagues. She pointed out to a male colleague sitting along with them in meaningful manner that he will teach you how to socialize with male colleagues of the University which apparently was an act of sexual harassment. It is further alleged that respondent no. 2 in association with respondent no. 1 was creating hostile environment against appellant because of not following her instruction and making complaint to Dean of Bahria University from freely pursuing her complaint. It is thereafter complaint was filed before FOS.
2. After going through record and hearing both parties it was observed by this forum of FOS that Bahria University Administrative Authorities had mishandled the case in hand. They had totally ignored the complaints moved by the appellant on 14-01-2016, 19-02-2016 and 22-02-2016 and no action was taken there on by Bahria University Authorities. On the contrary full focus was on exchange of hot words taken place on 15-01-2016 in between complainant / appellant and respondent no. 1 in front of the office of Director Bahria University. The act of ignoring the complaints of the complainant was not in accordance with law, therefore, matter was referred back to Bahria University to hold proper inquiry on the complaints moved by complainant / appellant on 14-01-2016, 15-01-2016, 19-02-2016 and 22-02-2016 in accordance with section 4 of Protection

against Harassment of Women at Workplace Act 2010 and complete the same within a period of 15 days.

3. In compliance of this direction, inquiry committee was constituted by Bahria University on 26-04-2016 which has given its report on 21-06-2016.
4. After going through the report I found that it is a very comprehensive report, examining all aspects of the case after framing point for consideration. Inquiry committee in its recommendations had observed that:-
 - (i) As the complainant and accused no. 1 violated the basic professional norms, gave least regard to formalities, disregarded mutual trust and respect and professional ethics thus jeopardized the institutional sanctity. Therefore, it is recommended that both complainant and accused no. 1 may be dealt in accordance with applicable rules of the BU.
 - (ii) While dealing and probing with the issue of sexual harassment alleged by complainant, committee is of considered view that "it is further highlighted that the context of the conversation manifestly show that before the advice, the tone and tenor of the conversation had already been imbued with taunts, provocation, derides and insult for each other showing deep rooted disliking for each other. Thus at that point of time, it is too hard to believe that Accused no. 1 was cajoling the complainant or harassing her for sexual purpose".
 - (iii) Finally it is further observed that "since the law relating to the Protection against Harassment of Women at Workplace Act 2010 is a new law in the field, there is likelihood that people may misuse it for private ends to the prejudice of someone's dignity, respect and moral character having lifelong impacts on one's life. Therefore, it deems appropriate that seminars and workshops may be conducted on regular basis for information and specific education of BU students as well as employees".
5. These recommendations of inquiry committee were reported to this office of FOS on the very day of 21-06-2016 and simultaneously Bahria University Administration had also initiated step under Bahria University rules and on recommendations of the competent authority had terminated services of

appellant on 01-07-2016 whereas respondent no. 2 had submitted her resignation on 21-07-2016.

6. This inquiry report dated 21-06-2016 and her termination from service have been challenged by appellant on the ground that by virtue of section 5 clause 3 of Protection against Harassment of Women at Workplace Act 2010. Inquiry committee had just to report to Ombudsman about its recommendation. Then it is for Ombudsman to take any action in accordance to law if allegation leveled against the accused found to be false and made with malafide intention. The inquiry committee cannot take action at its own as has been done in the present case with the termination of service of appellant.
7. It is correct that the inquiry committee at its own cannot terminate any party from his / her job on the basis of its observation. Concluding para of inquiry report clearly indicates that it had just made recommendations to deal the case of both appellant and respondent no. 1 in accordance with applicable rules of Bahria University. It is thereafter Competent Authority of Bahria University had ordered termination of appellant from service under Bahria University Rules with dismissal of service of appellant in Section 4(5) (c) of Act 2010.
8. Next ground urged is that if the inquiry committee had found respondent no. 1 and 2 to be guilty than it was bound to recommend the competent authority for imposing one or more of the major or minor penalties as provided under section 4 clause 4 of Act of 2010. These arguments too does not find support from the record because the observation of inquiry committee on issues framed in this text as:-

- (i) Whether Accused no. 1 in her office on 14th January 2016 around 1800 hours when complainant was called upon to discuss her AER

extended any advices to the complainant with regard to socialization and making relationship with male colleagues and also made meaningful gestures; if so, what was the intention and motive for such advices?

(ii) Whether any of the statements / advises or gestures made by Accused no. 1 can be termed as harassment within the meaning of such term under Section 2(h) of the Act?

(iii) Whether complainant termed Bahria University as “brothel house” and her employees including accused no. 1 as “prostitutes” in front of students, faculty members and staff?

(iv) Whether any of the actions of accused no. 2 after the complainant dated 14th January 2016 by the complainant were done in collusion with accused no. 1 and with an intention to create hostile environment for or harass the complainant?

have gone against complainant.

9. Therefore the arguments of appellant that if inquiry committee found respondent no. 1 and 2 to be guilty then it was bound to recommend to the competent authority for imposing one or more minor or major penalty against them, has no forced therein. Penalty can only be imposed against any accused, if he / she is found guilty.
10. On the contrary in case if complainant failed to prove his / her allegations or they are found to be false then recommendations can be made by Inquiry Committee to Ombudsman for appropriate action against complainant, which has not been done. Even otherwise removal of complainant from service is sufficient in this regard.
11. It is also pertinent to note that the observation made by the inquiry committee on above referred issues have not been rebutted or challenged by appellant at any stage except that inquiry committee was not competent to terminate the complainant, which definitely has not been

done by them.

12. Observations of inquiry committee report dated 21-06-2016 are just and proper. Member of inquiry committee has made sincere efforts to find out the actual aspect of the case.
13. Upshot of above discussion is that I fully agree with the recommendations of inquiry committee report dated 21-06-2016 and hereby dismiss the appeal having no merits.
14. Parties be informed.
15. Announced in open court.

JUSTICE (R) YASMIN ABBASEY
Federal Ombudsman