



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

Order on Review Application

1. Review Application Number: 1(66)/2012-FOS and 2 (66)/2012-FOS
2. Date of Institution: 24-03-2013 and 05-06-2013
3. Date of Decision: 02-07-2013
4. Applicant: Shaista Shahzad
1(66)/2012-FOS Ex-Superintendent
NDU Islamabad.
VS
Opponent: Col. Khushi Muhammad & Others
NDU Islamabad.
and
5. Applicant: President NDU,
2(66)/2012-FOS Islamabad
VS
Opponent: Shaista Shahzad
Ex-Superintendent
NDU Islamabad.

Yasmin Abbasey,

Ombudsman:

Review Applications No. 1(66)/ 2012-FOS and 2(66)/2012-FOS

1. By this order I will dispose of both the review applications moved by the parties in case No. 1(48)/2013-FOS viz Shasita Shehzad V/S Col. Khushi Muhammad and others. The grounds placed by applicant Shaista Shehzad are that the right of lien, being a former employee of Pakistan Air Force, who joined the present institution of NDU through proper channel be considered for regularizing her service as according to her she joined NDU on the promise that she will be regularized as an employee of NDU. According to her OC Headquarter Maj. Tanveer had signed a letter after consulting Esta Code that applicant Shaista Shehzad's permanent service is countable towards previous service. She has also prayed for issuance of an order of grant of pensionary benefits in her favour since 30-7-1995.

2. Whereas NDU in its review application with reference to the maintenance of the ACR by applicant Shaista Shehzad, has replied that maintenance of ACR by NDU office of all employees is for his own purpose to evaluate and make a decision to terminate or extend the contract of its employees as per NDU statute. Thus she being an NDU contractual employee was not an exception. As to the grant of service benefits upto 07-6-2011 it is pleaded that communication of termination letter of 05-5-2011 w.e.f. 25-4-2011 is not disputed as she has received the same on 12-5-2011. This fact has also been confessed by her in application addressed to President NDU on 18-5-2011 therefore the order for grant of service benefits upto 07-6-2011 may reviewed.
3. In his review application NDU has also prayed for direction for Shaista Shehzad that she may be directed to produce clearance certificates duly signed by competent authorities and clearance of deposit of Mess bills, if any or any receipts of cash etc.

4. Beside the specific pleas newly taken by both parties, the other facts placed by both of them are almost the same as has been stated by them in the main proceeding.
5. So for the point raised by the applicant Shaista Shehzad that her services be treated as a regular employee instead of contractual. This status of her service has already been decided by Federal Service Tribunal (FST) in appeal No.505 (R)CS/2011 wherein on the basis of the same facts as to the terms and conditions of her service while joining NDU, they have specifically observe that:

“From the record it is established that the appellant was a contractual employee and not a deputations. Thus she was not a civil servant. Hence could not seek remedy in this Tribunal. Appeal is dismissed for want of jurisdiction. She may seek remedy in the appropriate forum.”

6. Record further reveals that on 23-9-2011 applicant Shaista Shehzad also approached to Supreme Court of Pakistan in its Human Rights Cell with the same facts as has been placed by her before this forum but her application was disposed of with observation that “application be filed and applicant been informed to seek legal remedy in accordance with law, if so advised”
7. This order was communicated to her vide letter dated 02-11-2011 and it is after about more than a year she approached to this forum. Anyhow as to the status of applicant Shaista Shehzad service as to the contractual employee has already been settled down by FST and this forum had rightly observed that this forum has no jurisdiction to entertain this issue. So for the grant of pensionary benefits to her is concerned first of all it is a new plea taken in the review application and secondly this forum has no jurisdiction to entertain such kind of prayers. Hence rejected.

8. So for as the ground taken by NDU to review the order of holding that applicant Shaista Shehzad is entitled to salary upto 07-6-2011 and benefit attached to it, is concerned, no doubt the signature of applicant receiving her termination letter dated 05-5-2011 on 12-5-2011 are on record but at the same time an application moved by her on 18-5-2011 as Superintendent in Registration branch is also on record wherein she has agitated against her termination and not regularizing her. This application was disposed of by Lt. Col. Administration Tahir Mehmood on 07-6-2011. Irrespective of the contents of the application moved by Shaista Shehzad the fact that on 18-5-2011 she moved this application as Superintendent Registration Branch of NDU and this fact has not been denied or clarified by Lt. Col Tahir Mehmood in his reply dated 07-6-2011 which constraint to presume that till 07-6-2011 she was in service of NDU.
9. Although after filing of the main complaint by applicant Shaista Shehzad before this forum NDU has refuted this fact of

to be in service of NDU till 07-6-2011 but this an after thought plea which can not be considered at this stage. The attendance register placed during the hearing of review application and filed later in these circumstances also can not be taken as conclusive proof that till 7-6-2011 she was not on the roll of NDU as contract employee and as complainant till 07-6-2011 was indirectly presumed to understand that she is still an employee and served there, therefore she is entitled to the salary till 07-6-2011.

10. In view of above observation both the review applications moved by the parties in case are hereby disposed of accordingly.

YASMIN ABBASEY
Ombudsman