

**BEFORE HONORABLE MS. KASHMALA TARIQ, FEDERAL
OMBUDSMAN FOR PROTECTION AGAINST HARASSMENT OF
WOMEN AT THE WORKPLACE, ISLAMABAD**

*Ms. Shazia Munir, D/o Munir Ahmed, R/o Hardokilo, Halowala, Tehsil
Nowshera Virkan, District Gujranwala*

....Complainant

Versus

*Tariq Mehmood, AVP Manager, Zarai Taraqati Bank Limited, Tatlay Aali,
District Gujranwala*

....Accused

Complaint No. FOH-HQR/0000088/19

Order

15-12-2021

The facts leading to the captioned complaint are that Ms. Shazia Munir **(herein after called the Complainant)** was appointed as officer grade-II in the Zarai Taraqati Bank Ltd under SR 2005 w.e.f 01-07-2018. She was posted in Tatlay Aali Branch Gujranwala Zone under the supervision of Manager ZTBL of the branch. By the time the Complainant assumed the charge of the post, Mr. Javed Iqbal was the Manager Operation of the bank. The Complainant worked under him for about two and a half year as Operational activist and during this time, Mr. Javed Iqbal, Manager found her hardworking, honest bearing good moral character. Her conduct during this period (as per affidavit of Mr. Javed Iqbal) remained outstanding and she always dealt with the people of all ages very calmly, politely and fairly.

2. Later on, Mr. Javed Iqbal left the job and was replaced by Tariq Mehmood **(herein after called the Accused)**. It appears that soon after the assumption of charge by Accused as Manager of that branch, the working relationship between him and the Complainant got worsened and tensed. Both the sides started blame game against each other. According to the Accused, since the Complainant was inefficient, indisciplined, unpunctual and problematic, her illegal activities were brought to the notice of bank senior management due to which she filed the complaint against him. On the contrary, according to the Complainant, the Accused demanded her sexual favours

and other immoral activities but when she refused to succumb to his such immoral demands, the Accused got offended and started causing interference in her work performance, creating, intimidating, hostile and offensive work environment and attempting to punish the Complainant for refusal to comply to his illicit demands. It was alleged by the Complainant that on 26-03-2019 at the late hours, the Accused called her to his room and made objectionable conversation with her but when she resisted he got infuriated and used abusive language. She was, subsequently, called by the Accused on 08-04-2019 at 5:00 pm to hand her over the termination letter with the remarks that it was the result of her refusal to concede to his demands. That on 09-04-2019 when she went to the bank for collecting her articles, Accused caught hold of her arm and forcibly took her to his room where he touched her body. She escaped from the clutches of the Accused and ran away outside when meanwhile the Accused hit her face throwing a register.

3. All the above allegations were reduced into writing by the Complainant in her complaint which was filed at this forum under section 8 of the Protection against Harassment of Women at the Workplace Act 2010. Beside this forum the Complainant also made such allegations against the Accused at other relevant forums i.e. PM portal, FIA and police etc. In view of the complaint filed at this forum Accused was asked to submit his written defense which he furnished, denying the allegations of the Complainant. He took the stance that the Complainant was discharged from her duty on account of her indisciplined behaviour and misconduct and as such she lodged the complaint against him in retaliation. Both the parties were provided with opportunity of producing evidence. They availed the opportunity and recorded their evidence as they wished.

4. I heard the arguments of the learned counsel for the parties in support of their respective stances and perused the relevant record.

5. The analysis of the available material on the file would show that the Complainant had been levelling clear and specific allegations of sexual harassment as against the Accused on all the available forums i.e. PM portal, FIA, Police, Finance Secretary and FOSPAH. It had been the consistent accusation of the Complainant against the Accused that she was persistently demanded by the Accused to give him

sexual favours and when she declined to do so she was put to many pressures making her workplace conditions hostile and ultimately to discharge from duty on concocted grounds without holding fair and impartial inquiry.

6. There is no denying the fact that the services of the Complainant were terminated by the authority on the complaint/allegations of the Accused without issuing her any explanation, show cause notice and without holding any formal inquiry. Although this aspect of the matter is not that relevant at this stage, yet, in view of the numerous judicial pronouncements such a major penalty could not have been imposed against the Complainant without conducting formal inquiry providing opportunity of being heard to her. Not providing such an opportunity to the complainant would amount to condemn her unheard. Such practice has never been allowed by the law courts of the country as it is negation of the maxim, “Audi alteram Partem” (No one should be condemned unheard). It appears as if it was one way traffic. Accused being manager of the bank and, apparently, in a dominant position also having support of the Zonal chief, formulated a big list of allegations against the poor lady and got succeeded using the blessing of the authority to remove her from the job.

7. It is admitted fact that the Complainant was promoted to the post of Deputy Manager by the authority some time before the drastic action was taken against her. It is not understandable how the Complainant could have been promoted to the post of Deputy Manager if her past record was allegedly so bleak. In a male dominated society like ours such an excesses against a lady employee are not uncommon. It is also on the record that the Complainant remained outstanding in her performance and character during the period she remained under the supervision of another branch manager namely Javed Iqbal. If the lady was outstanding performer during the time of Javed Iqbal how she could become “persona-non-grata” during the time of the Accused. The allegations against the Complainant which were authored by the Accused reflect his serious bitterness and hostility against the Complainant. Some of the allegations seem quite funny which should have been considered and properly probed into by the competent authority but the authority blindly followed whatever was conveyed to it by the Manager. Such a blind following has never been approved by the judicial forums of the country.

8. Now coming to the harassment complaint in hand, it is mentioned in the complaint that prior to the Complainant's employment at ZTBL the Accused would approach her at KSSL and tried to engage her in conversation but he subsequently came into direct contact with her after her employment in ZTBL on 28-06-2018. It is specifically mentioned in the complaint that the Accused would regularly find excuses to physically touch the Complainant on various occasions and when she refused to such advances of the Accused he cut off her basic facilities such as PTCL, telephone line and printer etc. The Complainant in her affidavit exhibit PW 1/1 on the file has specifically alleged the Accused for casting evil-eyes on her and more particularly while narrating the incident of 09-04-2019 alleged that the Accused made immodest act of touching her body on the pretext of checking her luggage. The Complainant was cross examined by the learned counsel for the Accused at length. This cross examination would show that the Complainant has never been subjected to cross examination on important points which she narrated in her examination in chief. Needless to explain if a witness is not cross examined on a point which he or she has narrated in examination in chief, it is presumed to be admitted by the opposite side. The Complainant has not been cross examined on the point that on 09-04-2019 she was physically touched by the Accused and on her resistance she was abused and was badly hit with the register on her face. She has also not been cross examined on the point that the Accused kept evil eyes on her and oftenly asked her for meeting. Complainant has also not been cross examined on her allegation that Accused caught hold of her, forcibly took her to his room and touched her body.

9. Admittedly many other male staff was working in Tatlay Aali branch but none of them has been charged by the Complainant for any sexual harassment. The question arises why the Accused alone has been nominated when no previous enmity, malice or grudge existed between the Complainant and the Accused. Sexual harassment of women and the protection of women from being harassed at the workplace was already enshrined under the constitution of Pakistan which was subsequently provided under the Act 2010. This Act was not confined only to the relationship of an employer and employee but it extended to all cases of sexual harassment committed by employer or employee with any woman (at the workplace) by misusing/exploiting his/her official position/capacity. Any worker who was employed in any manner or capacity with employer was protected from being harassed. In the case law cited at PLD 2016 Lhr 407 it was held that it was a matter of common sense that a

lady would not ruin her modesty/dignity/respect by making a false complaint of sexual harassment just to defame a person or colleague.

10. Testing the present case on the above mentioned criteria, there seems no reason for the Complainant to falsely charge the Accused for sexual harassment just to defame him. She has taken a bold and daring step to come forward, to stand up and speak up against the person in authority in this conservative and male dominated society. Her courage needs appreciation and commendation. Leaving other things aside, so far as the case of Complainant regarding sexual harassment is concerned, in my view she has been successful to establish her case against the Accused. The evidence produced by the Complainant seems credible and confidence inspiring, whereas the Accused has been unable to shatter or discredit the evidence adduced by the Complainant. He has failed to cross examine the Complainant on vital aspects of the matter i.e. allegation of sexual harassment and hence for that matter the said allegations are presumed to be admitted and proved on the record.

11. Statement of Javed Iqbal (PW 2) in favour of the Complainant may not be taken light. He has categorically stated that the Complainant remained honest, hardworking and modest during the period she remained under his supervision. This witness has also not been cross examined on the points narrated by him in his examination in chief. He further deposed, confirming the stance of Complainant about her sexual harassment at the hands of the Accused. Same is the case with two other person namely Qamar Ejaz and Hafiz Zubair Ahmed, Ex-employees of ZTBL who submitted their affidavits in evidence.

12. It has come on the record that the father of the Complainant was class IV employee (Naib Qasid) of the bank concerned who had worked under the Accused. Accused used to remind the Complainant of the poor background of her father. Such an attitude of the Accused could never be commendable because it was against the dignity and honour of labour and humanity.

13. As a result of the inquiry conducted by this forum in the instant matter as per rules of the Act 2010, I have reached to the conclusion that the Accused, beyond any doubt, is guilty of sexual harassment of the Complainant in terms of section 2(h) of

the Act 2010 and as such he is liable to be awarded punishment in terms of section 4(4)(ii)(d)(e) of the Act 2010 i.e. major penalties.

14. Since the Complainant has been terminated from service in utter violation of the law and rules i.e. conducting no regular inquiry against her and providing no opportunity of hearing to her, the termination order is quite illegal and unlawful and cannot stand intact. In the given circumstances it will be deemed as if no order of termination made or exists in the field and the Complainant is still bank employee like the one she was at the time of so called and nullity termination order. In view of this, the Complainant will be entitled to all her benefits till today.

15. Consequent upon what has been discussed above, I recommend for the Accused the penalty of his dismissal from service along with a fine of Rs. 5 lacs which shall be payable to the Complainant as compensation for the hardships she faced at the hands of the Accused. This decision be conveyed to both the parties as well as the management of the concerned organization for implementation of the orders in terms of section 8 sub section 5 of the Act 2010 under intimation to the Registrar, FOSPAH within 7 days of receipt of the order.

16. Before parting with the judgment/order I would like to instruct the ZTBL management to install CCTV cameras and biometric system in every branch of the bank to monitor the activities of the employees so as to be used if need be. It is deplorable on the part of the bank management that they have not followed the mandatory provision of the Act 2010 failing to constitute the inquiry committee for holding probe into harassment cases of the bank.

17. I would also like to give direction to the bank management to make arrangements for awareness and training workshops of its employees under guideline of FOSPAH and also to display code of conduct on conspicuous areas of all the bank branches.

FEDERAL OMBUDSMAN