



FEDERAL OMBUDSMAN
For Protection against Harassment of Women at Workplace
Islamabad

J U D G M E N T

1. Complaint Number: 1(135) / 2015-FOS (Reg)
2. Date of Institution: 16.03.2015
3. Date of Decision: 03.07.2015
4. Complainant: Mst. Shazia Umer,
W/o Umer Bhatti
5. Opponent: Badar-uz-Zaman,
Deputy Director General,
Post Office, Islamabad

Justice (R) Yasmin Abbasey,

Ombudsman:

Complaint No. 1(135)/ 2015-FOS.

1. On 16.03.2015 complainant Shazia reported that on 28.02.2015 when she had gone to GPO Lahore at 10:30 am for having token of a vehicle she was informed by concern clerk that one Dy. DG namely Badar-uz-Zaman, who came from Islamabad, has got stop all work. In meanwhile opponent DG Badar-uz- Zaman came on counter and when she talk with him he told her to came in office. According to complainant, when she went in office of opponent along with her mother opponent tried to outreached her modesty, hence this complaint has been filed.
2. Along with this complaint she has filed her statement attested before Oath Commissioner, wherein she has given detail of incident. Her statement has been signed by four more witnesses.
3. Opponent in his reply has totally denied the allegations leveled by complainant. According to him on 28.02.2015 he had gone to GPO Lahore for inspection and to deal with fraud and illegal cases of GPO Lahore. it is further stated that office of Senior Post Master Khawar Shah which is alleged to be place of incident is located at eastern end. One door of this room opens inside hall and other door opens in corridor. It has a glass partition in middle, therefore everything happening inside Post Master's office is visible from Saving Bank hall as well as from corridor. Entry in working area of hall from public area involves entry points which are locked, therefore no entry can be made without opening of those locks. On 28.02.2015 one Muzammil was sitting as IT Technician from 9:30 am onward in front of counter and kept on sitting there till opponent left office at about 1:00 pm, therefore Muzammil can be a best witness of any incident happened in corridor or in senior Post Master's office. It is absolutely false to say that work in Lahore GPO Mall was got stopped by him. For purpose of checking cash balance as per chief Treasurers book and actual available cash, release of cash was stopped from Treasury and after checking, that counter also started its work. It is false to say that motor vehicle tax counter was non functional at 10:30 am. A false story has been build up by complainant. According to opponent he is

being falsely involved in this matter as he was detecting fraud cases in GPO Lahore and was holding inquiries and investigation in that connection.

4. Opponent has also taken certain legal pleas that this forum has no jurisdiction to entertain this complaint as neither complainant is an employee nor employer of post office. The objective of this law is to provide relief to employee and employer / job seeker / internees and not to customers coming in the organization. A reference has been given of a decision made in case of Quaid-i-Azam University by President of Pakistan.

5. Heard arguments and perused record, my findings are as under:

Although complainant has alleged very serious nature of allegation against opponent and beside herself has also produced some witnesses to support her statement, but after going through statement of complainant and her mother I found a lot of contradictions in their statement. According to complainant, as stated by her in chief and in complaint filed on 16.03.2015, incident of case has taken place on 28.02.2015 at 10:30 am. This date has again been repeated by her in her affidavit sworn by her on 09.03.2015, but in her cross examination a different date has been given by her that "Again says that incident took place on 28.03.2015. I came to Lahore on 28.03.2015 at 10:00 am". This statement has again been repeated by her in her further examination that "after about 4 or 5 days I again went to office of Khawar Shah and moved a written complaint of this incident of 28.03.2015...." Witness Parveen Akhtar who claims to be a mother of complainant has rebutted statement of complainant and has categorically denied happening of incident on 28.03.2015. According to her incident took place in second month of year and has admitted that she along with complainant came at GPO Lahore on 28.02.20015. Again in statement of both these witnesses there is contradiction about arrival of them at GPO Lahore on day of incident either it may be 28.02.2015 or 28.03.2015. As according to complainant she came at GPO Lahore at about 1:30 pm, whereas according to Parveen Akhtar she came along with complainant at GPO Lahore at 10:30 am. Again according to complainant, she came from Gujrat to Lahore on 28.03.2015 at 10:00 am through public transport, whereas according to Parveen Akhtar she came to Lahore 2 or 3 days before incident along with complainant. These contradictory statements which directly relates to the incident alleged in the matter creates

doubt on happening of the incident on any particular day, because that date and arrival of complainant and her witness Parveen Akhtar at GPO Lahore are absolutely different to each other in addition to statements of their arrival from Gujrat to Lahore.

6. It is also pertinent to note that Mst. Parveen Akhtar has been produced by complainant personating to be her mother, whereas in her affidavit of 09.03.2015 filed along with her main complaint name of mother of complainant has been given as Mst. Azra Bibi. This again creates doubt that who is real mother of complainant and on that particular alleged day of incident who was in company of complainant, wither Azra Bibi or Parveen Akhtar.
7. According to complainant, after happening of incident when she raised cries beside Parveen Akhtar other persons including Khawar Shah also came there and on seeing them opponent hurriedly left office. It is further stated by her that she wanted to move complaint against opponent at very moment, but Khawar Shah requested her not to move any complaint as it will affect reputation of the Institution.
8. But at the same time, it is noteable that this very Khawar Shah who was so serious to save reputation of the Institution i.e GPO, not only first complaint filed on 28.02.2015 was drafted in the office of Khawar Shah and name of witnesses appearing on statement of 09.03.2015 were also got noted by Khawar Shah as deposed by complainant's witness Malik Sadaqat Ali. Here it also cannot be overlooked that in spite of all these activities which were going on in the office of Khawar Shah, he neither informed happening of this incident to his higher officers nor has moved complainant produced as exhibit C/1 to higher authorities for any further action in the mater. This fact finds support from statement of Mst. Fozia Salman Chief Post Master Lahore GPO that "regarding complaint of harassment lodged by Mst. Shazia occurring allegedly at about 10:30 am (on 28.02.2015). Nothing was brought to my notice verbally or in writing by anyone on 28.02.2015". In her cross examination she has further added that

"she never heard about incident of 28.02.2015 which is subject matter of this case. Even in subsequent weeks no report was received by her about incident said to had happened on

28.02.2015 at GPO Lahore”.

She further added that

“even on 6 or 7 March, 2015 I have not received any written or verbal complaint, however much later to that when I asked Khawar Shah on phone about compliance of some work assigned by me to him, he replied me that he could not do the same because of some work. On my further explanation he informed me on phone about incident of this case happened in GPO Lahore.

9. The analysis which I have drawn from this statement of Mst. Fozia Salman with reference to Khawar Shah is that he was so much involved in incident of 28.02.2015 that he could not perform official work in time. Activities of Khawar Shah in alleged incident of this matter is appearing on record, because not only in helping complainant in drafting first complaint produced as exhibit C/1, collecting references of witnesses produced in matter for communication, and preparation of draft of complainant moved before this FOS are admitted facts by Khawar Shah himself in his cross examination. Statement of Khawar Shah moved on 28.04.2015 as representative of complainant Mst Shazia placed on record at Page-37 of file show his involvement in the matter, but he is unable to give any reason that if he was so much engaged in this incident why same was not reported to higher authorities for any action against opponent.
10. Complainant along with her main complaint filed on 16.03.2015 has filed an affidavit with detail of this incident. On this affidavit beside complaint, signatures of 4 more witnesses are also appearing and it appears to be duly attested by Oath Commissioner. This affidavit has been taken up by complainant as her statement in chief, but authenticity of this very statement became suspicious when in her cross examination she admits that she never appeared before any Oath Commissioner for getting her statement in chief attested. So also complainant's witness Parveen Akhtar in her cross examination has deposed that “I put my thumb impression on document in room of Khawar Shah and had never appeared before any Oath Commissioner”, but her witness Malik Sadaqat Ali has stated differently that “I appeared before Oath Commissioner while putting my signatures I had only gone along with complainant to Oath Commissioner”. This contradictory statement further creates doubt to probity of

complainant as well as of her witnesses, and attestation of complainant and her witness signatures before Oath Commissioner, because again Khawar Shah has given a different version that "it is correct to suggest that I was not present at time when my signatures were got attested before Oath Commissioner". On the other hand though opponent's witnesses have denied happening of incident, but even in their cross examination complainant or her representative Khawar Shah has not been able to brought forward to contradict their statement or proof of happening of incident at GPO Lahore. In contrary defense of opponent is that as in his official capacity his duty is to investigate and dig out corruption and fraud happening in post office and for that purpose on 28.02.2015 he had gone to GPO Lahore, therefore to remove him from way this false story has been cropped up by Khawar Shah who is active member of this case. To support his defense he had filed number of documents. Though this defense taken up by opponent does not find support from statement of Mst. Fozia Salman Chief Post Master Lahore GPO that except only one case of postal pension there is no other corruption case and that too has been referred to FIA.

11. To belie statement of complainant that because of close of counter for issuance of token of vehicle under orders of opponent, she came in contact with opponent and thereafter incident of this case happened, opponent has produced sheets and record of transaction of motor vehicle tax and saving bank Lahore GPO of 28.02.2015 to show that both these counters were not closed on 28.02.2015 and were working from morning till close of office. These record produced as exhibit O/7 have not been rebutted by complainant.
12. In view of above facts, I am of view that because of contradictory statement of complainant and of her witness involvement of an officer of office of GPO Lahore who himself came forward to represent complainant before FOS somehow show preplanned activity prepared against opponent.
13. So far as ground taken up by opponent about maintainability of this forum to entertain this complaint, it is clarified that term "complainant" as defined in section-2 sub clause (e) does not mean only employer and employee, internee or job seekers of institution, but also includes any person who has been harassed in any organization or institution and has made complaint to Ombudsman or Inquiry committee of organization. According to opponent sub-

clause a,b,c of Code of Conduct under title of **abuse of authority, creating hostile environment, and retaliation**, only speaks about happening of incident in between employer and employee. Therefore jurisdiction of this forum is restricted only to dispute in between employer and employ but this interpretation is on wrong footing because code of conduct as given in Schedule of Act 2010 is for guidance of employer and employee of Institution / Organization that in case, any incident of harassment happened within organization then how the victim should proceed and how employer will deal with the matter. It apparently does not relate to a “person” out of the organization with whom any incident of harassment took place in organization.

14. Even otherwise purpose of this act is to recognize fundamental rights of citizens as to dignity of person and to provide protection against harassment at workplace to all either they may be employer or employee of the Institution or who entered therein for purpose of any work, because main object is to create safe working environment in the institution for persons.
15. Up-shot of above discussion is that complaint of complainant is hereby dismissed having no merits. Parties be informed according.
16. Announced in open court.

JUSTICE (R) YASMIN ABBASEY
Federal Ombudsman