



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

**J U D G M E N T**

1. Appeal Number: 1(329) / 2017-FOS (Reg)
2. Date of Institution: 24-03-2017
3. Date of Decision: 26-05-2017
4. Appellant: Sheikh Muhammad Irfan Ullah  
Manager Transit  
A-367, Malir Town  
Karachi
5. Respondents: Sadia Abrar  
Wireless Administrative Control  
Pakistan Telecommunication  
Company Limited  
Msc Hall, 1<sup>st</sup> Floor  
Paki Capital Telephone Exchange  
University Road  
Karachi

**Justice (R) Yasmin Abbasey,**

**Federal Ombudsman:**

**Appeal No. 1(329)/ 2017-FOS.**

1. This appeal has been preferred by appellant Sheikh Muhammad Irfan Ullah an employee of Pakistan Telecommunication Company limited against decision of competent authority of Institution in result of inquiry report dated 12-06-2016 whereby a major penalty of reduction to a lower post of AM / Engineer for period of two years has been imposed on him
2. Case of appellant is that appellant was charge sheeted on 13-04-2016 on account of immoral activities / harassment to female staff i.e. respondent. It is alleged that except communicating statement of allegation and charge sheet no document was ever provided to him in spite of his repeated requests made by him in his reply dated 21-04-2016 to charge sheet and even thereafter on 18-04-2016, 03-06-2016, 08-06-2016 and 28-02-2017. It is alleged that without providing basic material documents which have been taken in against to appellant he was condemned unheard. However he deny all the allegations leveled against him. According to him there was no such situation on 12-03-2016 in MSC Hall. Its doors were opened. Respondent was standing with appellant on server. One Nawab Ali Shah was also present in hall at a distance of few feet. Appellant had never thought of having demand of sexual nature from respondent or any other female.
3. During inquiry proceedings no proper opportunity was provided to him to cross examine witnesses on the very first day of recording their statements. From charge sheet issued to him on 13-04-2016 he has been alleged to had harassed one more female Mst. Warda Nasem beside respondent, but neither any complaint alleged to have been moved by Mst. Warda Naseem or complainant Mst. Sadia Abrar have been produced by department before this forum nor the same has been provided to him in spite of repeated demands. Anyhow from statement of allegation and charge sheet it appears that alleged incident with Mst. Sadia Abrar took place on 12-03-2016. By

this very charge sheet appellant has also been charged that he use to touch shoulder in very friendly manner of one another female team member namely Mst. Warda Naseem but no specific date or period of that alleged incident has been shown.

4. As stated above that except mentioning date of moving complaints by respondent Mst. Sadia Abrar and of Mst. Warda Naseem both complainants have been placed on record to scrutinize sensitivity of incident. Even after issuance of charge sheet appellant had requested number of times to provide requisite documents but till last date those have not been provided to him which apparently creates a doubt as to the existence of those complaints. Beside that Inquiry proceedings as initiated further show that same have been conducted in a very improper manner. Such as Inquiry committee had recorded statement of parties in proceedings and of witnesses at its own on 07-05-2016, 13-05-2016, 18-05-2016, 19-05-2016 and 20-05-2016 but on these particular days when their statements were recorded they were solely called to give evidence with no opportunity to cross examine each other or to the witnesses produced in against to appellant, as provided in Section 4 sub section 1(c) of Act 2010. Inquiry committee had questioned them at its own. However at later stage on 11-06-2016 an opportunity was provided to parties to cross examine each other and witnesses produced during inquiry proceedings. This procedure adopted by inquiry committee was not in accordance with law because this opportunity of cross examination should have been provided to parties on very day when statement of witnesses and of parties were recorded. Delay in providing this opportunity makes the case suspicious. In spite of that if statement of respondent Mst. Sadia Abrar recorded on 07-05-2016 is examined. According to her she has intimated about incidents happened with her on 12-03-2016 to Mst. Warda Naseem, but Mst. Warda Naseem neither has been produced to support statement of respondent nor to incident alleged to had happened with her as stated in charge sheet with hands of appellant. Inquiry committee has also failed to explain that if the complaint was made by respondent on 12-03-2016 why so much delay was made in issuing charge sheet i.e. after a month on 13-

04-2016.

5. Coming up to the evidence as placed it is stated by respondent that initially appellant maintained some distance then gradually he tried not to have any distance, but whether from this statement any conclusion can be drawn of sexual harassment when at later stage in answer to question that how many times appellant touched her and at which part of body her reply was "I do not remember specifically so I do not remember when and at which part of body and she also did not complaint because it was taken as an elderly gesture". To an another question that whether she felt any biasness in behavior of appellant in between male and female, respondent answer was "no as he used to help and educate team".
6. It is not understandable that if respondent at that particular time did not felt any wrongful behavior on part of appellant and had not taken any touch of appellant to her with sexual intention, how all of sudden on 13-04-2016 it was taken an incident of sexual harassment by Pakistan Telecommunication Company limited, by appellant towards respondent and Mst. Warda Naseem. Mere mentioning that respondent had sent an email on 15-03-2016 and Mst. Warda Naseem on 13-03-2016 is not sufficient proof of their complaint until and unless same are brought on record. Further though in charge sheet and statement of allegation Mst. Warda Naseem has also been shown as victim of appellant but during whole inquiry proceedings neither any notice was issued to her to participate in proceedings nor she was ever called by inquiry committee or respondent as her witness to depose before inquiry committee.
7. Proceedings as initiated in against to appellant by organization are on baseless ground. Even during inquiry proceedings neither respondent nor organization has been able to bring any satisfactory and sound evidence in against to appellant. Whole episode seems to have been planned with some ulterior motive which according to appellant is to oust him from organization which has come up when an offer to avail VS scheme was made through letter dated 28-11-2016.

8. Upshot of above discussion is that appellant has been penalized illegally on the basis of unsound ground. Impugned order dated 22-02-2016 is hereby set aside. Appeal of appellant is allowed.
9. Issue letter to General Manager HRO Pakistan Telecommunication Company Limited to implement the decision and report to this office within 15 days of receipt of this order.
25. Announced in open court.
26. Parties be informed accordingly.

**JUSTICE (R) YASMIN ABBASEY**  
**Federal Ombudsman**