

**OFFICE OF THE FEDERAL OMBUDSPERSON
FOR PROTECTION AGAINST HARASSMENT OF WOMEN
AT THE WORKPLACE, REGIONAL OFFICE, SINDH
FORM OF ORDER SHEET**

Appeal No. 486/2025

Date of Institution: 20.02.2025

Serial No. of Order of Proceedings	Date of order of Proceedings	Order of other proceedings with Signature of Federal Ombudsperson			
		TITLE	MR. SHOAIB ZAFAR	VS	MS. TANZEELA SOOMRO & ORS.
		DEPARTMENT: OFFICE OF DIRECTOR GENERAL AUDIT SINDH (DGAS)			
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05	04.04.2025	<p>Counsel for Appellant: Mr. Shoukat Ali Abro, Advocate Counsel for Respondent(s): In-person</p> <p><u>Subject: Final Order on Merits</u></p> <p>1. The Appellant, Mr. Shoaib Zafar, serving as Assistant Audit Officer (Legal) in the office of the Director General Audit Sindh (“DGAS”), Karachi, has preferred the instant appeal under Section 6 of the Protection Against Harassment of Women at the Workplace Act, 2010 (“the 2010 Act”), challenging the office order bearing No. DGAS/Admn/Misc/Protection against Harassment/39(05)/840 dated 21.01.2025, issued by the Department in compliance with the Office of the Auditor General of Pakistan’s Notification No. 09/Dir(L)11-422/Discip/2023 dated 08.01.2024. Through the said order, the Appellant was awarded the minor penalty of <i>Censure</i></p>			

upon being held guilty in relation to a complaint of harassment lodged by Ms. Tanzeela Soomro (Respondent No. 6).

2. The factual background, as presented, is that both the Appellant and the Complainant/Respondent No. 6 were serving in the same office in the capacities of Assistant Audit Officer (Legal) and Assistant Audit Officer (Admin), respectively. On 15.07.2024, Respondent No. 6 lodged a complaint stating that on 12.07.2024 at approximately 1:45 PM, the Appellant approached her workstation, stared at her, and made derogatory and threatening remarks, including: *“You are Soomro too, and you are Setan, Ghoongi Shetaan,”* along with other alleged verbal threats. The Complainant asserted that the said behavior constituted harassment within the meaning of the 2010 Act.
3. Following the complaint, a charge sheet was issued to the Appellant vide letter Ref No. DGAS/Inquiry Committee/Harassment of Women at Workplace/489 dated 01.08.2024, along with a statement of allegations. The Appellant, through his letter dated 06.08.2024, sought an extension to submit his written response and requested a copy of the original complaint. He contends that despite the request, a copy of the complaint was not provided to him, thereby violating his right to a fair trial under Article 10-A of the Constitution of Pakistan.
4. In his written objections dated 20.08.2024 and 02.09.2024, the Appellant denied all allegations, asserting that he had always upheld moral values, professional ethics, and integrity, and that the complaint lacked the necessary elements to constitute harassment under Section 2(h) of the Act of 2010, emphasizing that the alleged incident was mischaracterized.

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| | | <p>5. It was further alleged by the Appellant that the inquiry proceedings were fraught with procedural irregularities and were conducted in violation of the principles of natural justice. He specifically contended that he was not afforded a reasonable opportunity to cross-examine the complainant, Respondent No. 6, nor was the statement of Respondent No. 6 recorded in his presence. The Appellant maintained that he was not given a fair chance to present his defense, and that the inquiry committee acted arbitrarily and failed to adhere to the due process, thereby rendering the entire inquiry process flawed.</p> <p>6. The Appellant further questioned the legality of the constitution of the inquiry committee, comprising two Assistant Directors and one Audit Officer. He asserted that none of the members belonged to senior management, in contravention of Section 3(2) of the Act of 2010. Additionally, the Appellant claimed that the inquiry was conducted in an unprofessional and arbitrary manner, with proceedings being recorded via a mobile phone, frequent rescheduling, and a failure to provide him with video recordings or transcripts of the inquiry sessions.</p> <p>7. The Appellant also contended that the complaint failed to meet the statutory definition of “harassment” under Section 2(h) of the Act of 2010, arguing that the essential elements constituting harassment were not satisfied. In support of this assertion, he placed reliance upon PLD 2021 SC 784 (<i>Nadia Naz v. President of the Islamic Republic of Pakistan</i>), which emphasized that the conduct constituting harassment must include a sexual element.</p> <p>8. It was further alleged by the Appellant that a witness in his favor, namely Ms. Pashmina, Assistant Audit Officer, was not permitted to</p> |
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record her statement during the inquiry proceedings, depriving him of the right to produce evidence in his defense.

9. The Appellant also averred that he had actively pursued matters involving corruption and maladministration within the Department of the Auditor General of Pakistan. He submitted that the timing of the complaint, coinciding with the period when his promotion was under consideration, raises the presumption that the complaint was motivated by mala fide intentions and orchestrated by individuals affected by his professional activities.

10. In light of the foregoing, the Appellant prays that the record and proceedings of the inquiry be summoned and the impugned order dated 21.01.2025 be declared illegal, unlawful, and void *ab initio*, being in violation of the principles of natural justice and his fundamental rights. He seeks the setting aside of the penalty of *Censure* and any other relief deemed just and appropriate by this Forum in the circumstances of the case.

11. In response to the present appeal, Respondents No. 1 to 5, being members of the Inquiry Committee, have submitted their individual written responses, wherein they have categorically denied the allegations of procedural irregularities, bias, and legal deficiencies. Respondent No. 1, Ms. Rabia Muneer, the Head of the Harassment Committee/Inquiry Committee, explained that two separate inquiry committees were constituted to address the original harassment complaint. Upon receipt of the complaint on 15.07.2024, the first Inquiry Committee was established, comprising Respondents No. 1 to 3. However, due to Respondent No. 1's promotion, a second inquiry committee was formed, consisting of Respondents No. 2, 4, and 5.

12. Respondent No. 1 further asserted that the proceedings conducted by the inquiry committee were fully in compliance with the provisions of the 2010 Act and the principles of natural justice. She emphasized that the Appellant was provided with a comprehensive charge sheet along with a statement of allegations, affording him ample opportunity to prepare his defense as stipulated under Section 4 of the Act. Furthermore, Respondent No. 1 contended that cross-examination was not a statutory requirement under the Act, as the inquiry was administrative in nature and not judicial.

13. Respondent No. 1 also stated that the inquiry committee was constituted in accordance with Section 3(2) of the 2010 Act, highlighting that both Ms. Rabia Muneer (Respondent No. 1) and Mrs. Marmareen Sumbul (Respondent No. 2) hold senior positions as Deputy Director and Assistant Director, respectively, as defined by the institutional hierarchy.

14. In relation to the scheduling of hearings, Respondent No. 1 explained that the adjustments to the hearing dates and times were made at the request of the Appellant. The Appellant had submitted an application requesting changes to the committee composition and the hearing schedule. The committee responded with flexibility to accommodate the Appellant's participation, ensuring the inquiry was concluded on the same day, given the logistical constraints. Additionally, the recording of proceedings via mobile phone was undertaken to ensure transparency, and the Appellant was never restricted from requesting a transcript of the proceedings.

15. Respondent No. 1 further asserted that the Supreme Court, in its judgment, has not limited the definition of harassment solely to conduct of a sexual nature. She noted that the complainant had alleged conduct amounting to a hostile work environment under

Section 2(h)(iv) of the Act. However, this reference is misplaced, as the Act only defines harassment under Sections 2(h)(i) and 2(h)(ii). Nonetheless, she argued that the Committee rightly concluded that the Appellant's actions met the threshold of harassment within the meaning of the Act.

16. Concerning the exclusion of the Appellant's witness, Respondent No. 1 clarified that Ms. Pashmina was not a witness to the incident in question and therefore could not provide relevant testimony regarding the specific events. Given her absence during the incident, her testimony was deemed immaterial to the facts of the case. Furthermore, the Appellant was at liberty to present alternative witnesses if necessary.

17. In conclusion, Respondent No. 1 prayed that the appeal be dismissed in its entirety, affirming the inquiry committee's decision as lawful, procedurally sound, and substantively just. She further requested that the committee's overall adherence to the Act and constitutional safeguards be recognized, and that any minor procedural deviations during the hearing be viewed leniently. Respondent No. 1 also sought her removal from the list of respondents, requesting that the appeal be decided on its merits.

18. Respondents No. 2 to 4 supported the position of Respondent No. 1, affirming that the inquiry was conducted in strict accordance with the provisions of the Act, 2010. Respondent No. 4, Mr. Sajid Ali Gujjar, Deputy Director and head of the reconstituted Inquiry/Harassment Committee, confirmed that the findings of the initial committee were upheld. After reviewing the proceedings and relevant legal framework, the second committee recommended the imposition of minor penalties. The final report was submitted to the DGAS, Karachi, via letter No. DGAS/Inquiry Report/141 dated

04.12.2024, for onward submission to the competent authority, i.e., the Deputy Auditor General (QAIM), for imposition of the recommended penalty or any other appropriate action.

19. Whereas, Respondent No. 5, Mr. Abdul Rasheed Keerio, Audit Officer and Member of the second inquiry committee, clarified that he joined the second inquiry committee after the dissolution of the initial one and, as such he was not involved in the proceedings or findings of the original inquiry committee.

20. On the other hand, Respondent No. 6 reiterated the allegations made in her original complaint and provided a detailed account of the events leading to the incident dated 12.07.2024. She submitted that during July 2024, an incident involving the theft of air conditioner compressors occurred at the office of the DGAS, Karachi. In response, an inquiry committee comprising Mr. Waseem Soomro (Audit Officer) and Mr. Khalid Aziz (Assistant Audit Officer) was constituted to investigate the matter. The committee visited the Admin Section on 11.07.2024, where the Appellant allegedly became agitated during questioning by Mr. Waseem Soomro and, in a fit of anger, threw a chair at him in the presence of several colleagues.

21. It was further alleged by the Respondent No. 6 that on the next day, i.e., 12.07.2024, the Appellant approached Respondent No. 6 at her workstation, stared at her, and remarked, "*You are Soomro too by caste,*" and referred to her as a "*Ghoongi Shetaan.*" She asserts that these remarks were made on the basis of her caste and shared surname with Mr. Waseem Soomro, despite having no familial relation with him.

22. She further contended that, despite the presence of other female colleagues, the Appellant deliberately singled her out, directed

abusive language at her, and made threatening gestures, resulting in emotional distress.

23. She submitted that a formal complaint was lodged on 15.07.2024 with the Office of the DGAS, Karachi, on grounds of workplace harassment and discrimination. In response, the Inquiry Committee issued a letter to the Appellant directing him to submit a written response. However, despite multiple opportunities, the Appellant failed to comply. Respondent No. 6 also expressed concern that, contrary to the provisions of the 2010 Act which envisage that the accused may be placed on leave or temporarily suspended from duty during an ongoing inquiry, the Appellant was allowed to continue with his assignments and was even entrusted with key responsibilities.

24. Respondent No. 6 alleged that the Appellant made baseless accusations of bias against the Inquiry Committee and managed to have a female member replaced. Despite his unprofessional conduct, repeated delays, and attempts to obstruct the inquiry—such as keeping witnesses waiting—the Committee allegedly extended undue favours to him, resulting in prolonged proceedings and failure to submit findings in a timely manner. She contended that this preferential treatment compromised the principles of fairness, impartiality, and transparency mandated by the 2010 Act and deprived her of justice as a complainant. In support, she relied on Section 509 of the Pakistan Penal Code. Accordingly, she requested that appropriate action be taken against both the Appellant and the responsible authorities to ensure accountability and prevent recurrence of such conduct.

25. In light of the above facts, this Forum summoned the Appellant, Respondents No. 1 to 5 (Members of the Harassment/Inquiry Committees), and Respondent No. 6 to present their final

arguments. On 26.03.2025, Mr. Shoukat Ali Abro, Counsel for the Appellant, appeared in person. Respondents No. 1, 3, 4, and 5— Ms. Rabia Muneer (Deputy Director and Head of the initial Inquiry Committee), Mr. Samiullah Memon (Audit Officer, Member of the initial Committee), Mr. Sajid Ali Gujjar (Deputy Director and Head of the second Inquiry Committee), and Mr. Rasheed Ahmed Keerio (Audit Officer, Member of the second Committee)—were present. Respondent No. 2, Ms. Marmareen Sumbul, and Respondent No. 6, Ms. Tanzeela Soomro, sought adjournment on medical grounds.

26. It is pertinent to mention here that Respondent No. 6, being the original complainant, was not present due to her medical condition, specifically undergoing thyroid surgery, and was on a two-month leave in this regard. Therefore, her written statement, which forms part of the official record, has been duly taken into consideration.

27. During the hearing, the Appellant's Counsel reiterated the grounds raised in the appeal and argued that the Respondents had not categorically denied the allegations, which, in his view, undermined the credibility of their defence. In response, the Presiding Officer noted that the Forum encourages both complainants and respondents to appear in person, recognizing that they are typically laypersons without legal training. Therefore, the Forum considers all responses submitted—regardless of their technical precision—as long as they are properly placed on record.

28. The Respondents maintained that the inquiry was conducted in accordance with legal requirements, and that the Appellant was given ample opportunity to present his case. They submitted that while the Act does not explicitly mandate cross-examination of the complainant, it allows for the cross-examination of witnesses, which was considered by the Inquiry Committee. They contended that the

excluded witness was not relevant to the facts in issue. The Committee concluded that although the conduct did not constitute sexual harassment, it created a hostile work environment and warranted the imposition of a minor penalty as a corrective measure.

29. In the light of above contentions, the principal questions that arise for determination in the instant matter are:

- **Whether the actions of the Appellant constitute Harassment under Section 2(h) of the 2010 Act?**
- **Whether the inquiry conducted by the Inquiry Committee complied with the due process requirements under Sections 3 and 4 of the 2010 Act?**

30. To determine whether the Appellant's conduct falls within the scope of sexual harassment under Section 2(h) of the 2010 Act, it must be assessed whether the behavior involved unwelcome sexual advances, requests for sexual favors, or any verbal, visual, written, or physical conduct of a sexual or sexually demeaning nature that created a hostile, intimidating, or offensive work environment. The provision also includes conduct that penalizes a complainant for refusing to comply with such requests or makes compliance a condition of employment. It further covers gender-based discrimination stemming from a prejudiced mindset that results in biased or unfair treatment of the complainant.

31. To understand the context of the incident, it is important to consider the circumstances that preceded it. The Appellant was tasked with overseeing the repair of air conditioners within the department, a responsibility carried out for the collective benefit of the staff.

Following the theft of certain compressors, he was accused of being involved. As per his account, none of his colleagues came to his defense, which left him feeling isolated and wronged. The following day, the Complainant reportedly asked him how he was doing—a remark that, in light of the recent accusation, was perceived by the Appellant as an insinuation about his mental stability. While the precise intent behind the remark is not established, the timing and context suggest that it may have been interpreted as provocative. In a heightened emotional state, feeling unsupported and marginalized, the Appellant responded impulsively, using language that was inappropriate for a professional setting.

32. While the Complainant's remark may not have been made with the intent to provoke, the Appellant's reaction appears to have stemmed from a deep sense of injustice and social alienation within the workplace. He felt mocked and marginalized, and though his response was unprofessional, it must be viewed within the emotional and psychological context in which it occurred.

33. In light of the events outlined above, it can be reasonably inferred that the term "*Ghoongi Shetaan*" was not directed at the Complainant as a personal or gender-specific insult, but rather reflected the Appellant's broader frustration with the silence and lack of support from his colleagues during a time when he felt unjustly accused and isolated. The Complainant, having engaged with the Appellant during that emotionally charged moment, became the unintended recipient of this outburst. In this context, the expression appears to have been a reaction to the perceived inaction within the workplace rather than a comment rooted in gender bias.

34. Moreover, the Complainant also alleged that the Appellant remarked, "You are Soomro too, you are Shetaan." This statement, when viewed through the lens of discrimination, appears to suggest a caste-based dimension rather than gender-based discrimination. While inappropriate, such language aligns more closely with bias based on social identity or community background, and does not, in itself, establish sexual harassment or gender-based targeting under the applicable legal framework.

35. While it is acknowledged that gender-based discrimination can occur even if only one woman is treated unfairly in an otherwise neutral environment, such treatment must demonstrably stem from gender-specific motives. In the present case, the Appellant's conduct, though inappropriate and unprofessional, does not exhibit characteristics indicative of such intent. Given the emotional backdrop and the absence of a pattern of gendered hostility, the remarks are more appropriately understood as stemming from personal grievance and perceived caste association. Accordingly, any discriminatory element present would more plausibly fall under caste-based discrimination rather than gender-based discrimination.

36. Similarly, in **2013 MLD 198**, this Forum clarified the importance of the sexual nature of the conduct in determining whether it qualifies as harassment under the Protection Against Harassment of Women at the Workplace Act:

"From the plain reading of the above mentioned section it is clear that a key part of the definition is the use of the word unwelcome or uninvited conduct or communication of a sexual nature is prohibited. The sex based behavior shall be severe or persuasive enough to alter the conditions of the victims employment and create an abusive working environment or renders the work place atmosphere intimidating, hostile or offensive. The respondent No.2 has alleged that appellant called her 'Jahil and Badtameez

Aurat'. None of the words uttered by appellant qualifies the term sexual harassment. Although the comments were sufficiently offensive to cause discomfort for a woman but they did not rise to the level of interfering with the respondent's work performance as it was an isolated incident, occurred on a very minor dispute. Had there been a man in her place, situation would have been equally bad for him."

(Emphasis Added)

37. This reasoning applies in the present case. While the remarks made by the Appellant, such as calling the complainant "You are Soomro too" and "Goongi Shetaan", were offensive and inappropriate in a professional setting, they do not meet the definition of harassment under the Protection Against Harassment of Women at the Workplace Act. These remarks were not of a sexual nature and did not interfere with the complainant's work performance or create a hostile environment. The incident was isolated, stemming from the Appellant's emotional reaction to his previous experiences, and does not indicate a pattern of behavior that would qualify as harassment. Therefore, the situation described in the precedent is comparable to the present case, where the remarks were offensive but did not rise to the level of harassment because they did not significantly impact the complainant's ability to perform her work or create a hostile work environment.

38. Additionally, in **Nadia Naz v. President of the Islamic Republic of Pakistan (PLD 2023 SC 588)**, the Hon'ble Supreme Court held:

"If the definition of the word sexual is taken to also include the gender, the impact is significant when reading Section 2(h) of the Act as harassment means any unwelcome sexual advance, request for sexual favors or other verbal or written communication or physical conduct of a sexual nature or sexually demeaning attitudes. So in the context of harassment, the word sexual and sexually are relevant and give meaning to the word harassment, which in this context becomes actionable when it relates to the gender,

being sex-based discrimination as opposed to only meaning coital relations and advances. Reading further into the definition of harassment, it appears sex-based discrimination does not have to be limited to sexual activity, rather it is behavior which is promoted on account of the gender as a result of gender-based power dynamics, which behavior is harmful and not necessarily a product of sexual desire or sexual activity. Such harassment is motivated to degrade and demean a person by exploitation, humiliation and hostility which amounts to gender-based harassment and can include unwanted sexual alleviation and sexual coercion. Such behavior in law becomes harassment at the workplace when it causes interference with work performance or creates an intimidating, hostile or offensive work environment and has the effect of punishing the complainant for refusal to comply with a request or is made a condition for employment. Accordingly, the definition of harassment includes sex-based discrimination that is based on the conduct of the harasser which affects the workplace environment in a negative manner as it interferes with the work and performance of the victim.”

(Emphasis Added)

39. In the present case, while the complainant may have felt uncomfortable with the Appellant’s remarks, there is no evidence to suggest that these remarks were made with the intent to degrade, demean, or harass the complainant based on her gender. The language used by the Appellant, although inappropriate in a professional setting, does not fall under the definition of harassment as determined by the Supreme Court, which involves behavior motivated by gender-based power dynamics or sexual misconduct. The incident was an isolated exchange, which appears to be driven more by the Appellant’s frustration than any intention to create a hostile work environment based on gender. Therefore, the behavior in this case does not meet the legal threshold for gender-based harassment or discrimination under the relevant laws.

40. In view of the foregoing analysis, the actions attributed to the Appellant—though offensive and inappropriate—do not satisfy the

legal threshold of "harassment" as defined under Section 2(h) of the 2010 Act. The incident lacks any element of a sexual or sexually demeaning nature, and there is no evidence of gender-based bias or discriminatory intent. Therefore, the response to the first question is in the negative: the Appellant's conduct does not constitute harassment within the meaning of the Act.

41. With regards to the second query, it is observed that the Inquiry Committee made a genuine effort to conduct the proceedings diligently. As for the allegations concerning the rescheduling of sessions and the inquiry being conducted in haste, it is important to note that the 2010 Act authorizes the Inquiry Committee to regulate its own procedures, including fixing the time and place for hearings. This is clearly provided under **Section 4(2)** of the 2010 Act:

"(2) Subject to the provisions of this Act and any rules made thereunder the Inquiry Committee shall have power to regulate its own procedure for conducting inquiry and for the fixing place and time of its sitting and, where applicable, apply appropriate child-sensitive procedures."

(Emphasis Added)

42. Nonetheless, the Committee erred in its understanding of the core definition of harassment under Section 2(h) of the 2010 Act. While they correctly identified intimidation as a key element of harassment, they failed to fully apply the complete definition, which includes the conduct being unwelcome, sexually demeaning, based on either or both of the prohibitive grounds i.e. sexual advances or gender-based discrimination, manifestation of which is an impact on the complainant's work performance or a hostile work environment. The Committee's inability to consider these additional factors, despite recognizing intimidation, led to an incomplete understanding of the statutory provisions. This misinterpretation is

understandable, as the Committee may have lacked the professional legal expertise to fully apply the provisions of the Act. As a result, the procedural handling of the case was irregular, as the full legal definition of harassment was not applied.

43. Moreover, it was noted that the multiple misapplications of the law led to serious procedural lapses, namely, the denial of the Appellant's right to cross-examine the Complainant. This right is explicitly provided under **Section 4(1)(c)** of the 2010 Act:

4. Procedure for holding inquiry.— (1) The Inquiry Committee, within three days of receipt of a written complaint, shall—

(a) communicate to the accused the charges and statement of allegations leveled against him, the formal written receipt of which will be given;

(b) require the accused within seven days from the day the charge is communicated to him to submit a written defense and on his failure to do so without reasonable cause, the Committee shall proceed ex-parte; and

(c) enquire into the charge and may examine such oral or documentary evidence in support of the charge or in defense of the accused as the Committee may consider necessary and each party shall be entitled to cross-examine the witnesses against him."

(Emphasis Added)

The present case demonstrates that, despite the Committee's sincere attempts to maintain fairness, transparency, and adherence to the 2010 Act, such as accommodating schedule changes, documenting proceedings, and engaging with the relevant provisions—their understanding of the definition of harassment under Section 2(h) is incomplete which, undermines the validity of the inquiry proceedings.

44. The above-mentioned provision includes both the Complainant and the Accused in the category of “witnesses,” as they are each witnesses against the other. The term “witnesses,” however, seems to have been misinterpreted by the Committee, resulting in the failure to allow cross-examination of the Complainant which is a fundamental procedural safeguard.

45. In light of the above, this Forum sets aside the punishment of Censure imposed on the Appellant, as the conduct does not meet the definition of harassment or discrimination under the 2010 Act. Nonetheless, the Appellant’s use of derogatory language was inappropriate for the workplace. However, if any action were warranted in this regard, it ought to have been pursued through regular departmental disciplinary proceedings under the applicable service rules and policies, rather than under the harassment law.

46. Additionally, the Department is advised to take proactive steps to ensure that the legislative intent and purpose of the 2010 Act are effectively communicated to all employees, particularly members of the Inquiry Committee. To enhance their ability to adjudicate harassment and gender-based discrimination complaints, the Department must conduct training sessions on workplace harassment laws. This will help ensure that employees are aware of proper conduct and that the Inquiry Committee is better equipped to apply the law fairly and in line with the objectives of the 2010 Act.

47. The appeal is allowed in above stated terms.

FEDERAL OMBUDSPERSON