



FEDERAL OMBUDSMAN
For Protection against Harassment of Women at Workplace
Islamabad

J U D G M E N T

1. Complaint Number: 1(204) / 2015-FOS (Reg)
2. Date of Institution: 14.09.2015
3. Date of Decision: 04.01.2016
4. Complainant: Ms. Sumera Fazil Khan
D/o M. Fazil Khan
Office No. 9, 4th Floor,
Imtiaz Plaza, 85-The Mall,
Lahore
5. Opponent: Salim Jawaid Baig
S/o M. Abdullah Baig

Khurram Baig
S/o Salim Jawaid Baig

Sahar Baig
D/o Salim Jawaid Baig

Justice (R) Yasmin Abbasey,

Ombudsman:

Complaint No. 1(204)/ 2015-FOS.

1. Complainant on request of opponent No. 2 joined respondents office as lawyer. With passage of time complainant realized that opponent No. 2 & 3 are ceremonial partner of opponent No. 1 and are not practicing Advocates. In 2011 opponent No. 1 & 2 agreed to pay salary of Rs. 40,000/- per month with a share of professional fee in different cases to complainant for looking after opponent's office. This arrangement was made as opponent No. 1 was of old age and intend to migrate to UK, whereas opponent No. 2 was non practicing Advocate and was engaged in teaching in Law Department of South Asia University while opponent No. 3 was also non practicing Advocate and was resident of UK. In first quarter of 2015 when opponent No. 1 had a surgery opponent No 2 & 3 confronted with complainant in dealing cases of opponent no. 1. On 04.04.2015 at about 1:30 pm all three opponents came in office. Complainant was also present there and was doing her routine professional work, opponent No. 2 & 3 closed main door of workplace from inside and opponent No. 2 made a welcome physical advance and came to complainant at a very close distance of few centimeters which was in nature of intimidation, torture and sexual advance. When complainant raise voice to fight back opponent No. 2 moved to a distance, but he tried to make that distance close enough to maintain pressure. Opponent No. 2 & 3 objected that in absence of opponent No. 1 complainant was dealing with clients exclusively for which she was not permitted and this has put career of opponents in jeopardy. Opponent No. 2 & 3 used derogatory language, called names and used debasing language and assassinated the character and dignity of complainant. Opponent No. 1 encouraged both opponent No. 2 & 3 for their harassment act. When complainant wanted to go out she was not allowed

therefore she called police and also force her way to go out of office to save her dignity and life. Opponents dragged complainant, man handled, forced to act according to their desire. Opponent No. 1 through phone calls and through office boys used to threat complainant not to leave office otherwise she will not be allowed to work as an independent lawyer. He also promised to pay outstanding dues and salary of complainant. Opponent No. 1 also threatened that they will tell her clients to disengage complainant and ruin her career. On repeated demands of complainant a cheque of Rs. 71 lac dated 24.04.2015 was issued by opponent No. 1 as part payment of outstanding dues of complainant with opponent, still an amount of Rs. 15 lacs was withhold by him. On 17.04.2015 with a preplanned act opponents called complainant in their office and in presence of opponent No. 1, opponent No. 2 hold arm of complainant and threatened her for dire consequences in case she will not submit to will and wishes of opponent No 1 & 2. Complainant shouted to alert the occupants of Imtiaz Plaza and used physical force to come out of office. Matter was reported at Civil Lines Police Station Lahore on 24.04.2015.

2. On 30.04.2015 when complainant was representing her client at Multan, opponent No. 2 present there, harassed and bullied her. This incident was witnessed by Muhammad Muzaffar and Ms. Zarin Riaz Khawaja, Legal Manager Unilever Pakistan, and by Kashif Manj Advocate.
3. Again on 05.05.2015 both opponent No. 1 and 2 threatened complainant in a case before NIRC and has also raised objection for appearance of complainant before presiding office in that matter. Opponent No. 1 & 2 also threatened and harassed her outside the Court room which was witnessed by Nasarullah Almas Jothal and Muhammad Kashif Manj Advocate. Opponent also approached Unilever Pakistan Limited not to encourage complainant in their professional services which were refused by Unilever Pakistan. Opponents also sent derogatory emails to various officers of Unilever in order to assassinate character and dignity of

complainant. From May 2015 complainant is working with her sister Advocate Humaira Khan.

4. Respondents in connivance with each other filed frivolous criminal complaints with FIA, Crime circle Lahore and at the Civil Lines Police Station, Lahore. They had also sent emails to Pakistan Bar Counsel, Punjab Bar Counsel and Chief Minister of Punjab just to harass her. In these circumstances complainant has approached this forum for relief.
5. Opponents in their defense have denied all allegations leveled by complainant. According to them complainant has concealed facts from court. Act of 2010 is not applicable to lawyer particular to lawyer of Supreme Court and High Court as such complaint is not maintainable.
6. Competent forum to pursue matter is Punjab Bar Counsel which has already taken cognizance of complaint filed by present opponent for cancellation of complainant's license. Filing of this complaint is an attempt to harass opponents. Instant complaint has been filed after 5 months of alleged incident and is an afterthought and smacks of malice and counter action to FIR No. 451/2015 filed against complainant on 25.06.2015. Complainant in connivance with company Secretary committed act of forgery by preparing fake fee bills of opponents cases. As complainant was a paid employee of opponents and was involved in entire work of office as such she used to keep all office data in her laptop.
7. Opponent No. 2 joined opponents office in January, 2015 when opponent No. 1 had gone for medical surgery. Opponent No. 2 was looking after his work and from one of the desktop he came to know that complainant has been generating fake fee bills on her own fabricated letter head and received million of rupees from Unilever Secretary namely Amar Naseer and his team. When she was confronted she left office and also took some folders along with her laptop which contained respondents entire work of 30 years as Legal Petitioner. Complainant was sent message to

return complete office work data. Request was not declined, but office work data was also not returned. From 2014 complainant is working in opponents office and during this long spare of time she was fully satisfied. On 29.07.2015 FIA officials took complainant's laptop in their custody and send it for examination.

8. Complainant has displayed her enticing pictures on viber and whatsapp application on her cell reflecting her open invitation to all for specific purpose. Since she herself have invoked the provisions of the Act 2010, therefore to prove her veracity, she has to prove her moral values and conduct. Complainant in collision with Amar Naseer of Unilever and his team has caused huge financial loss to opponents law firm. Opponent No. 1 was always recognized by his clients. M/s. Unilever Pakistan is utilizing opponents law firm services for last 30 years and complainant being paid junior Associate only used to assist in legal matters.
9. In 2012 Amar Naseer Unilever Company Secretary in absence of opponent develop an understanding with complainant and both planned to make money by preparing bogus bills of fake cases. With this plan both complainant and Amar Naseer prepared forge and fabricated letter head on computer in complainant's individual name, whereas her name is also on opponent's letter head as Junior Associate. With this plan complainant placed many forge bills of opponents office and received payment in millions through Amar Naseer and his subordinate. That payment was deposited by complainant in Bank Al-Habib and Soneri Bank Mall branch and in other banks. When opponents came in knowledge of this forgery and illegality he initiated legal action against her in May and June 2015. This act was also brought in knowledge of high officials of Unilever Karachi and London, whereon investigation are in progress. Opponent do his consultancy work through his official email and beside him only complainant know password of opponents official email and that was misused by complainant. Matter is also pending under investigation

before FIA Cyber Circle. Complainant with connivance of Amar Naseer also removed computer data and hard copies of important documents pertaining to Unilever from opponents office. Zarin Khawaja and Muzaffar were also in company of complainant and Amar Naseer in above illegal acts. Sent messages as pointed out by complainant are concoctive one, whereas she herself is sending message to opponents through different modes. Complainant made calls for apology. She also maneuvered signatures on plain papers of lift man and peon on pretext of Zakat receipts.

10. Incident said to had happened at Multan is false. Letters as mentioned by complainant in para 9 of her complaint are afterthought. Request is made to reject or sent complaint of complainant to Punjab Bar Council for cancellation of her license and be referred to FIA, NAB and SECP against complainant and other persons inclusion with her.
11. Complaint be rejected and penal action be initiated against her.
12. Before going into factual and legal aspects of the case it is important to point out that conduct of opponents to pursue the case from very beginning was very irresponsible. Although they have filed their defense and at certain time were also part of proceeding but thereafter off and on they used to remain absent on date of hearings mostly on the pretext of having stay order of High Court in their favor, but soon thereafter they appear and contest the matter. In such state of behavior neither they have cross examined complainant, nor produced evidence on their behalf. At one or two times in spite of being present in premises of FOS they deliberately avoided to attend proceedings. Even at time of final arguments none was in attendance on behalf of opponents.
13. After perusal of record I found that complainant who according to opponents was their paid employee worked with them upto 04.04.2015. It is alleged by complainant that on 04.04.2015 all three opponents tried to

sexually harass her by making a physical welcome advance at a very close distance and particularly opponent No. 2 and 3 used derogatory language and had made her character assassination. Opponent No. 1 encouraged harassment act committed by opponent No. 2 and 3. All three opponents acted in collusive manner. It is further alleged that on 17.04.2015 all three opponents in a preplanned manner called complainant in their office for settlement. Opponent No. 2 in presence of opponent No. 1 hold arm of complainant and threatened for dire consequences. In case complainant does not submit to will and wish of opponent No. 1 and 2. Complainant shouted to alert occupants of Imtiaz Plaza, where office of opponents is situated, and also made physical force to escape from office. Thereafter litigation started in between parties at difference forums. Opponents filed criminal complaint against complainant before FIA Crime Circle Lahore and at Civil Lines Police Station Lahore to pressurize and intimidate complainant. Complainant also sent letters to Pakistan Bar Council, Punjab Bar Council and Chief Minister of Punjab.

14. From facts as pleaded by parties in their pleading what I had gathered is that opponent No. 1 was engaged by Unilever Pakistan in all its cases, but according to opponents taking advantage of opponent's No. 1 illness complainant in connivance with Amar Naseer and his team (employee of Unilever Pakistan) cause huge financial loss to opponents law firm. They committed fraud, cheating, and forgery with opponents by preparing bogus bills of cases and had withdrawn money from Unilever on behalf of opponents. According to opponents this matter was brought by them in knowledge of officials of Unilever. Number of emails and letters sent by opponents has been placed on record by them, but it appears that officials of Unilever were not satisfied with those remarks and considering services provided by opponent No. 1 and 2 as unsatisfactory on 05.05.2015 they had revoked power of attorney of opponent No. 1 and 2. And it is thereafter conflict has developed more and more in between parties, but except an FIR lodge by opponent No. 1 having No. 451/2015 of

25.06.2015, proceedings of other cases moved by parties are still pending. However from contents of FIR No. 451/2015, wherein opponent has raised almost same allegations as have been intimated by them to Unilever Pakistan and then reported to FIA and finally in defense filed before this forum, were examined by Police authorities and by their report dated 03.09.2015 all allegations have been discarded as no conclusive evidence was produced by opponent before Police authorities. It is also reported by investigation officer that opponent Saleem Baig was given opportunity number of times to produce documents in support of alleged forgery committed by complainant and others named by him. He could not produce the same, therefore FIR having No. 451/2015 was rejected.

15. Here too, opponents have failed to rebut statements made by complainant and her witness and none of them were cross examined. It appears that all times they tried to take themselves under the umbrella of stay order of High Court which apparently was not helpful for them in view of section-18 of Federal Institutional Reform Act which specifically bars any court or authority to interfere in proceedings of Federal Ombudsman. Purpose behind this legislation is quick disposal of case otherwise it will amount to protect and encourage perpetrator with support of any stay order from any authority to suspend proceedings of this forum and keep the victim under continuous act of harassment till pendency of stay order.
16. From record it reveals that opponent No. 1 and 2 are in habit of using derogatory language, and this, they themselves had proved by producing photos of complainant taken out from her whatsapp or viber application with remarks in para-11 of their defense that

“She has been displaying enticing pictures on viber and whatsapp application on her cell reflecting her open invitation to all for specific purpose.”

Again in an email addressed to different officials and officers of Unilever of Pakistan opponent No. 1 made a remark for complainant and Amar

Naseer employee of Unilever that

“Everybody knows her whereabouts having ball of a time with Amar as per her own uttering. My last email dated 1.06.2015 forwarded to Ali Tariq on 02.06.2015 reflects what is going on. What she has been telling about immoral activities with Amar to me and my son in my absence are open uttering by you, some are stated in email dated 01.06.2015”.

In another email opponent No. 1 addressed to complainant on 01.06.2015 has asked certain questions with reference to Amar Naseer which reads as under:

“Can you give me the answer of the following which you have been telling off and on.

1. Why he used to visit you in my absence?
2. Why he used to take you to my other office in the garb of settling 3p bills?
3. Why he was holding your hand in other room and what else?
4. Why he rang you at 11:00 pm in night to come to your room in Moven Pick Hotel in Karachi? And what more?
5. Why Zarin Khawaja wanted you to go to Dubai with Amar for a week?

And more which you have been telling me and my son to reflect your Importance.

Don't force me to open up more.”

17. Again in email sent by opponent No. 1 on 12.05.2015 addressed to complainant he has gone to extend of character assassination not only of complainant but of her sister which is not expected from Advocate belonging to a noble profession with higher education. Again in his official email dated 03.05.2015 opponent No. 1 has repeated all allegations leveled by him against complainant and Amar Naseer of fraud committed by them with Unilever Pakistan and opponents by withdrawing amount on basis of fake bills. This statement made by opponent No. 1 in this email of 03.05.2015 have already been discussed by Investigation Officer in his report dated 03.09.2015 which so far as appears from record has not

been challenged by opponent No. 1 at any stage. In his email dated 06.05.2015 opponent No. 1 has included some more names from office of Unilever in the alleged fraud said to be committed by complainant with him. It is pertinent to note that all these statements made by opponent No. 1 and allegations leveled by him against complainant and other officials of Unilever were rejected by Unilever Pakistan with revocation of power of attorney of opponent No. 1 and 2 on 05.05.2015 and by letter dated 30.06.2015 with reference to email sent by opponent No. 1 on 17.06.2015 very serious note was taken by Unilever Pakistan stating that “Your false allegations against Ms. Zarin Khawaja and Mr. Amar Naseer official of our clients accusing them of being involved in fraud is not only false and baseless but were made with the sole purpose of defaming them with ulterior motive. Email of 17.06.2015 also contained malevolent and obnoxious allegations against Mr. Muhammad Idrees one of the functionaries of our client, as well as against Advocate Muhammad Muzaffar. Your defamatory and unprofessional language amounts to gross professional misconduct and liable for action of defaming both civil and criminal”.

18. Although email sent by opponent No. 1 on 17.06.2015 is not found on record, but very serious note as to its language has been taken by Unilever Pakistan in their emails addressed to opponent on 19.06.2015, 22.06.2015. In against to these acts of opponent a Disciplinary complaint No. 794/2015 has been filed by Mst. Zarin Khawaja before Pakistan Bar Council against opponent No. 1.
19. In view of above discussion, what I gathered is that opponent No. 1 and 2 are in habit of using defamatory and derogatory language when they lose to gain their object. When Unilever Pakistan for whom according to them they had worked for years together had lost confidence of them and had revoked their contract, they have forgotten all moral ethics and parliamentary language and charged their opponents in very aggressive

way with baseless allegations which were neither accepted by Police Authorities nor by Unilever Pakistan. Beside what complainant has narrated in her statement in chief supported by her witnesses at different stages with reference to the act of harassment by physical force and using defamatory language by opponent No. 1 and 2 has not been rebutted by opponents and will be deemed in such circumstances to be correct.

20. In view of above discussion I am of view that opponent No. 1 and 2 have been found guilty of committing physical as well as verbal harassment towards complainant as the term "harassment" includes verbal or written communication or physical conduct of a sexual nature.
21. So far opponent No. 3 is concern except naming her as part of opponent No. 1 and 2 no specific allegation has been leveled against her. With this observation I impose a penalty of Rs. One Lac each on opponent No. 1 and 2 under Section 4(i)(d) with a letter of censure to be issued by President of Pakistan Bar Council under Section 4(i)(a) of Protection against Harassment of Women at Workplace Act 2010 to both opponent No. 1 and 2 to avoid such conduct in future. Issue a letter to President of Pakistan Bar Council being the governing body of Advocates under Legal Practitioners and Bar Council Act 1973 to get this order implemented within 15 days of receiving this order and report to this office of FOS.
22. Announced in open court.

JUSTICE (R) YASMIN ABBASEY
Federal Ombudsman