



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

TITLE: SUMERA YOUSAF VS MUHAMAMD TABASSUM

J U D G M E N T

1. Number: FOH-HQR/0000082/19
2. Date of Institution: 09-04-2019
3. Date of Decision: 03-11-2020
4. Complainant/Appellant: Ms. Sumera Yousaf
Junior Auditor
Ministry of Foreign Affairs,
Islamabad
5. Accused/Respondent: Mr. Muhammad Tabassum
Senior Auditor
Ministry of Foreign Affairs,
Islamabad

Kashmala Tariq,

Federal Ombudsman:

No. **FOH-HQR/0000082/19**

1. Sumera Yousaf (Complainant and Appellant) has been working as a junior auditor in the office of Chief Accounts Officer Ministry of Foreign Affairs (MOFA) Islamabad since September, 2016. Her personal photos were, allegedly, stolen in October, 2018 from her laptop and were made public in computer system of MOFA Islamabad. She leveled the allegation of that mishap against Mr. Tabassum, her office fellow. She brought this matter into the notice of her high ups to take action against Tabassum senior auditor. Prompt action was not taken by the organization, so she filed a complaint before this forum invoking provisions of Protection against Harassment of Women at the Workplace Act 2010. However, meanwhile, MOFA also constituted a committee to probe into the matter. The inquiry committee gave its findings holding Accused Tabassum guilty. Committee consisted of Ms. Ammara Hassan Assistant Chief Accounts Officer (Chairman), Mr. Sadaqat Ali Gujjar Account Officer (Member) and Mr. Zafar Saleem Senior auditor (Member). Muhammad Tabassum was issued show cause notices and charge sheet and ultimately was awarded punishment imposing minor penalty of withholding two increments vide office order dated 05-04-2019. Against the said order both Ms. Sumaira Yousaf and Muhammad Tabassum filed appeals. According to Sumera Yousaf the punishment awarded to the Accused is inappropriate and nominal, hence it requires to be enhanced to safeguard the working women folk. Muhammad Tabassum filed appeal on the ground that the impugned order dated 05-04-2019 is against the law and facts and is based on malafide intentions and ulterior motives hence, the same may be set aside.
2. In the above mentioned backdrop I heard the arguments of both the parties and gone through the record available on the files.
3. It is evident from the record that Complainant/Appellant Sumera Yousaf has been pursuing her case vigorously for quite some time. She appears to have approached every nook and cranny in this connection. Evidence recorded on behalf of the

colleagues of both the parties prove the factum of the incident narrated by Sumera Yousaf. It is nowhere shown or proved on the record that present parties had strained relations inter se due to which a false complaint could have been expected from Complainant/Appellant of Sumera Yousaf. On the other hand it is admitted fact that one Qurat-ul-Ain, wife of Accused has been working in the same office as a senior auditor and has been associated with the present issue between the Complainant and Muhammad Tabassum. Nothing has come on the record to prove any malafide or ill intention of Sumera Yousaf against Muhammad Tabassum. Admittedly the Complainant gave her laptop to Accused to remove some defect in the apparatus. The incident took place after handing over laptop to the Accused. As a result of detailed inquiry into the matter the committee has found the Accused Muhammad Tabassum as guilty of the misconduct. Both the committees formed for the purpose have held the Accused guilty of the occurrence alleged by the Complainant.

4. It is 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/colleague. Protection against Harassment of Women at the Workplace Act 2010 has been promulgated for the safety of the persons who feel insecure at the workplace and to punish transgressors for their act of sexual harassment, abuse or assault. Such acts have to be condemned and discouraged. Persistent and unwanted amorous advances by the Accused towards Complainant would amount to fundamental breach of the implied term of mutual trust and confidence. With more and more working women going to offices/workplace etc, their protection is of extreme importance to a civilized and cultured society. Under Article 25 and 34 of the Constitution of Pakistan it is everyone's constitutional duty to protect women to ensure their full participation in all spheres of a national life.
5. It is evident from the record particularly lengthy cross examination of Complainant/Appellant that nothing has come out of her mouth/tongue to suggest that the Complainant had some ulterior motive to falsely implicate the Accused in this matter. It is also not established on the record that Complainant/Appellant filed such type of complaints ever before in the organization. The above facts are to prove that the Complainant is a genuinely aggrieved person and has blamed a right

person for harassment. She is not proved to have barked on a wrong tree. Accused Muhammad Tabassum has failed to prove any biased or malafide against the members of the inquiry committee, who have held him guilty of the crime.

6. From the aforementioned facts it stands established that the Complainant has been successful to bring home charge to the Accused. Coming to the penalty imposed by the authority on Accused Muhammad Tabassum vide order dated 05-04-2019, the penalty, on the very face of it, seems inappropriate and nominal. It is just to protect the transgressor. Such uneven penalty cannot be a source of consolation to an aggrieved person and in turn it gives rise to a question mark on our justice system. Complainant/Appellant is seeking unprejudiced justice for her mental torture, workplace harassment, victim shaming/victim blaming etc on her and her family for the last several months. She also feels unsecure in the office in presence of Accused Muhammad Tabbasum.
7. In view of what has been discussed above I hold that the Accused Muhammad Tabbasum has been guilty of the charge of causing harassment to the Complainant Sumera Yousaf in terms of Protection against Harassment of Women at the Workplace Act 2010 and is liable to be imposed penalty under sub section 4 of section 4 of the Act 2010. While accepting the appeal/complaint of Sumera Yousaf I enhance the penalty of the Accused Muhammad Tabassum from withholding of two increments to reduction to lower post within the meaning of subsection 4(ii)(a) as a major penalty along with fine of Rs. 2 lacs to be paid as compensation to Complainant/Appellant.
8. Authority concerned is also directed to shift Mr. Tabassum to the place other than the one where Sumera yousaf is working so as to make her feel secured on her workplace.
9. Appeal filed by Accused Muhammad Tabbasum in the above scenario stands dismissed.
10. Announced

KASHMALA TARIQ
Federal Ombudsman