



FEDERAL OMBUDSMAN
For Protection against Harassment of Women at Workplace
Islamabad

J U D G M E N T

1. Complaint Number: 1(96)/2014-FOS
2. Date of Institution: 17.11.2014
3. Date of Decision: 20-02-2015
4. Complainant: Sayeda Rehana Batool
5. Opponent: Dr. Hafeez Ullah Khan, Secretary
Chief Scientific Officer, Pakistan
Science Foundation (PSF), Islamabad

Justice (R) Yasmin Abbasey,

Ombudsman:

1. According to complainant, she is serving in Pakistan Science Foundation for last 5 years in BPS-18. For last few years behavior of opponent was uncomfortable to complainant. It is alleged that issue of harassment cropped up in morning of last week of January, 2014 at 08:30 a.m when opponent told her to join him in his car. It is stated that as according to opponent he has to talk about some important matter which could not be discussed in office, therefore, she should join him in his car. As complainant was not clear about the intention of opponent therefore she refused his offer. It is stated that when complainant reached at her office, opponent immediately called her in his room and use filthy language against complainant, humiliated and threatened her that if she will repeat this attitude again and will not follow his instructions she will suffer irreparable loss and would not be possible to continue her job.
2. It is alleged that thereafter opponent put complainant under continuous harassment and persuaded her to take lunch or dinner with him, which all time was refused by her in result thereof opponent started pressurizing her through different means, by

changing her office thrice in 4 months and during that shifting process her important documents were stolen, data from her computer was deleted and she was severely mentally tortured by opponent. Opponent use abusive language and daily threatened to fire from job. Opponent has gone to the extent that he went to house of her brother at Kahuta and harassed her ill mother when she was all alone and was patient of sugar and hypertension.

3. An illegal inquiry was conducted against petitioner on news clipping. During that proceeding opponent again offer to cooperate with him. On refusal of complainant she was transferred to another section just to tease her. Against her transfer, she filed a writ petition before Islamabad High Court that writ petition was disposed off on 02.10.2014. A day thereafter she was dismissed from service on 03.10.2014. Due to continuous acts of opponent she filed an appeal in her organization against harassment of opponent, whereafter a painful atmosphere was created by opponent. She was daily called by opponent in his room and was humiliated in presence of his friends. All members of inquiry committee, constituted on complaint of complainant were of choice of opponent.
4. It is alleged that not only complainant but her witnesses Khalid

Mehmood, Muhammad Javed Iqbal also came in trouble, and former was transferred to Quetta while later was demoted from BPS 17 to BPS 16 with warning, because of giving statement in favor of complainant.

5. It is also alleged that opponent pulled the complainant from her hair, abused her and use filthy language against her in presence of Khalid Mehmood, Muhammad Javed Iqbal and one Journalist Obaidullah. On intervention of these persons, opponent left complaint.
6. Opponent in his defense has denied allegations leveled by complainant, it is stated that on complaint addressed to Chairman PSF, inquiry committee was constituted but complainant refused to appear before that committee and had not provided any evidence to them. She has also filed a writ petition No. 2744 of 2014 in Islamabad High Court leveling same nature of allegation against Chairman PSF and opponent, that writ petition was dismissed on 02.10.2014, thereafter another writ petition having No. 4779 of 2014 was filed which is pending before Islamabad High Court. Complainant has opened 2 forums for same relief i.e. before Islamabad High Court and before this forum of FOS which is not warranted under law and shows malafiedly intention of complainant.

Even inquiry committee has observed that petitioner is maligning and mud-slinging respondent without any legal and moral justification and has failed to prove the allegation leveled by her against opponent. Shifting of room was done only once during 4 months and not as pointed out by her. Complainant was well informed to take her all personal data from computer and documents along with Science Popularization section. Complainant was provided another computer for Research Support section. It is denied that opponent ever threaten to fire her from her job, because Chairman PSF is competent authority to take any disciplinary action against employees of Foundation.

7. In fact petitioner committed fraud with department, got hired under construction house, whereas she was living in another house, when inquiry committee investigated this fact came before department. On news clipping published in daily Dawn of 16.01.2014 titled as “student contest was judge by mere Assistant”. Chairman PSF constituted inquiry committee to probe into the matter and to find out anonymous source of this news.
8. It is denied that complainant was transferred because of opponent, but she was transferred in the light of her track record and poor

performance. In writ petition No. 2744 of 2014, on 24.09.2014 it was observed by Islamabad High Court that “it is made clear that this court has passed an order not to take any disciplinary action against petitioner. However, department is at liberty to continue proceedings already initiated as pointed out. However, final order may not be passed”. With this permission of Islamabad High Court, departmental proceedings were initiated against complainant. Show cause notice was issued on 25.09.2014 but complainant refused to receive show cause notice and also fail to appear before inquiry committee and finally on 03.10.2014 Competent Authority i.e. Chairman PSF dismissed her from service. On 30.05.2014 petitioner filed appeal and named 2 persons as her witnesses, out of them Javed Iqbal refused to appear before committee to record his statement and second witness Khalid Mehmood refused to submit his written statement to Inquiry Committee. Khalid Mehmood was transferred from PSF Head Quarter to Baluchistan Unit, Quetta on disciplinary grounds, whereas Muhammad Javed Iqbal is regular employ of Pakistan Museum Natural History, his appointment was made on acting charge basis w.e.f 01.08.2011 till further orders. He was repatriated to PMNH to join his original position as Children Education Programmer in BPS-16, therefore it is denied that he was

demoted, while the name of third witness Syed Obaidullah, Journalish was not mentioned by complainant in her appeal to Chairman PSF.

9. It is denied that opponent pulled hairs of complainant. Complaint is liable to dismissed.
10. After hearing parties and going through record, my findings are as under:

According to complainant, incident of harassment occurred in last week of January, 2014 when opponent forced her to sit in his car and on her refusal he is alleged to misbehave with her and use filthy and abusive language. Second incident is said to had happen on 12.03.2014 when opponent said to had pulled her hairs and maltreated her. Both allegations have been denied by opponent. Parties produced evidence in support of their defense, but reliability of witness produced by parties seems to be shaky and appears to be given just in favor them instead of bringing correct facts. Complainant had produced 3 witnesses in support of occasion said to had happen on 12.03.2014 but out of them, one witness Khalid Mehmood who has strongly deposed in favor of complainant, as per attendance sheet produced by opponent, which has not been denied

by complainant, was absent on 12.03.2014. In same way opponent witness Dr. Noshaba Amjad Ali Abro was member of inquiry committee conducted on the complaint of complainant, in the organization, on harassment issue against opponent. In same way Dr. Khalil Ahmed opponent's witness admits that in an inquiry against complainant on 25.09.2014, he has appointed opponent as head of that inquiry committee being authorized officer. This conduct of Dr. Khalil Ahmed of appointing person against whom a complaint has already been moved by complainant on 30.05.2014 is nothing but to put complainant under undue pressure and to give chance to opponent to exercise powers over her job. In the same way much reliance cannot be placed on statement of Dr. Noshaba, she was member of Inquiry Committee in the complaint filed by complainant against opponent. Being member of Inquiry Committee her role should have been impartial, but beside the observation as made in Inquiry Committee report of 06.06.2014, her presence as witness of opponent doubts her conduct. Whereas opponent's witness Amjad Ali Abro has admitted that while working with him, complainant had complained against behavior of opponent.

11. Showing involvement of administration of organization in malice act of opponent it is stated by complainant that in March, 2014, she has

taken sick leave because of pollen in Islamabad and after becoming healthy when she joined her duty on 16.04.2015. She was again directed by letter dated 23.04.2015 to appear before second medical board. In spite of request of complainant that as she has joined service after becoming healthy therefore second medical board will be useless because now board cannot give any opinion about her previous sickness but her request was declined and on recommendation of internal medical board by order dated 23.05.2014 her leave of 29 days was treated as leave without pay. These steps taken by organization does not seems to be reasonable because if after regaining health, if a person will appear before medical board for examination of her previous sickness, I think it is not possible to give such report. Even otherwise that recommendation of medical board have not been placed on record. In the circumstance, it is hard to rely on warning letter issued on 23.05.2014.

12. It is also blame that news published in daily Dawn of 16.01.2014 with reference of students festival of Energy Organization by Pakistan Science Foundation that "Students contest was judged by mare assistant". Matter was probed about issue of this news and finally had gone in pocket of complainant to do the same and with this state

of allegation by office order dated 13.03.2014 she was transferred from Science Popularization section to Research Support section. This office order beside an allegation of press clipping also show reason of transfer as her “track record”, but from record I found that from 2010 to 2015 appreciation certificates were issued to complainant in return of her performance in institution, even otherwise this news clipping on basis of which complainant was transferred has a statement of Chairman PSF, Dr. Khalil Ahmed stating

“Finding a suitable judge was a difficult task especially in Pakistan.

We decided to nominate assistants as judges because they have experience regarding lab work. Even science students, whenever they get stuck on an issue, ask lab assistants to resolve their issues.

“Although assistants are non-gazetted employees, I believe they are the best choice for judges,” he said.

13. In his cross examination he has denied to give such statement which find support from office notes placed at page 172 to 174 of this file. Perusal of these notes and their clarification issued on 24.02.2014 does not make mention of any inquiry to be conduct against complainant or any disciplinary action against her. Nor that inquiry

report has been produced before this forum. In absence of inquiry report, and office note no liability cannot imposed on complainant for the incident

14. In view of evidence produced by parties although no conclusive evidence has come on record on the issue of mal-treatment or offer of opponent with him to accompany in his car, but there is sufficient material on record which proves that off an on scenes were created against complainant to put her under constraint harassment either by transferring her from one section to another without any supported evidence of that transfer because mere statement of organization is not sufficient until unless satisfactory evidence is produced on record to justify those transfers. Committee also shows its partial attitude towards opponent. In same way a chance has been given to opponent to make a negative note against complainant as head of inquiry committee probing in hiring case of complainant.
15. In view of all, it is proved that intimidating, hostile and offensive work environment was created against complainant and without assigning any reason she was removed from service even without calling her explanation on vague statement that she has found guilty of various acts of omission and commission amounting to misconduct.

16. Upshot of above discussion is that the responsible authorities i.e. Dr. Khalil Ahmed who knowing a fact that a complaint has been filed by complainant against opponent had appointed him as head of inquiry committee to probe her case is an act of creating hostile and offensive environment in organization against complainant, therefore a penalty of Rs. One lac each is imposed on both opponent and Dr. Khalid Ahmed Chairman of PSF under section 4(i) (d) of Act IV of 2010. PSF is directed to recover this amount from both of them as compensation payable to complainant. Concerned officer of PSF is further directed that after recovery of amount, same be paid to complainant without any loss of time and intimate compliance report within 15 days of receipt of this letter. Complaint disposed off accordingly.

YASMIN ABBASEY
Ombudsman