



FEDERAL OMBUDSMAN
For Protection against Harassment of Women at Workplace
Islamabad
J U D G M E N T

1. Complaint Number: 1(203) / 2015-FOS (Reg)
2. Date of Institution: 14.09.2015
3. Date of Decision: 09.02.2016
4. Complainant: Mst. Tabassum-un-Nisa
Family Welfare Worker
Hamdan House Sikhoo
Tehsil Gujranwala
5. Opponents:
 - i. Riaz Ahmed, DPWO
G-9 Sector Kazafi Chowk
Islamabad
 - ii. Muhammad Nasrullah, DPWO
G-9 Sector Kazafi Chowk
Islamabad
 - iii. Batin Farooqui, Store Keeper
District PWO
G-9 Sector Kazafi Chowk
Islamabad
 - iv. Muhammad Shoaib, LDC, DPWO,
G-9 Sector Kazafi Chowk
Islamabad
 - v. Zegum Shah, Assistant, DPWO
G-9 Sector Kazafi Chowk
Islamabad
 - vi. Muhammad Ayoub, Accountant,
DPWO
G-9 Sector Kazafi Chowk
Islamabad
 - vii. Ghulam Rasool, DDO, DPWO
G-9 Sector Kazafi Chowk
Islamabad
 - viii. Muhammad Tarique, Projectionist,
DPWO
G-9 Sector Kazafi Chowk
Islamabad

Justice (R) Yasmin Abbasey,

Ombudsman:

Complaint No. 1(203)/ 2015-FOS.

1. On 14.09.2015 a complaint was filed by applicant Mst. Tabassum-un-Nisa against 8 respondents, all of them employees of District Population Office Islamabad on following grounds.
 - i. Withdrawn of Rs. 6000/- from applicant's salary without any notice to her.
 - ii. Non-payment of project allowance from 2008-2012.
 - iii. Explanation of applicant on her alleged absence from office.
 - iv. Pressure of respondents on Doctor of PIMS to declare complainant as unfit for service.
 - v. Improper service of charge sheet.
 - vi. Attempt of abduction and use of unethical and offensive language against her.
 - vii. Removal from service of applicant on 01.09.2014 without inquiry.
 - viii. Use of abusive language by Zagheem Shah at instance of DPWO Riaz Ahmed.
2. During proceedings of that complaint it was brought in notice by both parties that as per judgment of Federal Service Tribunal (FST) dated 25.05.2015 and 13.10.2015, inquiry proceedings are pending before department, therefore it was observed by Federal Ombudsman that as on basis of same state of allegation departmental proceedings are pending therefore second trial through this complaint would not be in accordance to law as same cause of action cannot be investigated at two different forums at a time. With this observation parties were directed to join inquiry proceedings. At same time department CADD was directed to complete inquiry proceedings as early as possible within reasonable time. After this observation of FOS on 04.11.2015 review application was filed by Mst. Tabassum-un-Nisa on 10.12.2015 stating that her grievance as placed in main complaint No. 1(203)/2015-FOS(Reg) have not been considered and no observation has been given thereon, therefore order dated 04.11.2015 needs reconsideration.

3. As has already been observed in order dated 04.11.2015 that when once departmental proceedings have been initiated under direction of FST, therefore second trial on basis of same state of allegation at another forum is not in accordance with law, therefore any observation if would had been given before disposal of inquiry proceeding and its recommendation it would definitely prejudice case of either of parties before inquiry committee; therefore to avoid any conflict of opinion it was deemed proper to wait for recommendation of inquiry committee.
4. Now Inquiry Committee's report has been placed on record.
5. After going through inquiry report conducted vide order No. 1(144)/08dpwo dated 10.09.2015 I found that almost all allegations leveled against applicant and have been highlighted by applicant herself in her main complaint had gone against her. Inquiry officer has further reported that in spite of repeated opportunities given to applicant she deliberately failed to appear before inquiry committee and preferred to file miscellaneous application in appeal No. 635/2014 before FST which was rejected on 13.10.2015. An order at Page 95 of review application having No. 1(203)/2015-FOS (Reg) show that again applicant Mst. Tabassum-un-Nisa filed a review petition before FST which was dismissed in non-prosecution on 10.12.2015. Record further show conduct of complainant that on each and every issue, she is always keen to file petition. On 05.03.2014 when she was transferred from Rawat to DPWO (H.Q) she filed a petition at Islamabad High Court having No. 1406/204 which was dismissed with following observations:

“Perusal of record reveals that petitioner has been transferred within the same city and there has been a chequered disciplinary history behind her transfer. In one case, she was awarded minor punishment vide order dated 26.02.2016 whereby due to her unexplained absence on 12.02.2014 her leave was treated as EOL & and she was warned to remain careful in future, therefore, she cannot term the impugned order against public interest, because it cannot be presumed that public interest can be fostered in conditions where facility offices are locked with none of the officials

present at the station. Even otherwise, no government official can claim posting at a specific station as of right and the nature as well as requirement of duty is to be given prominence. In view of above, writ petition being forceless is dismissed in limine."

6. Again this order was challenged in Intra Code Appeal having No. 197/2014 by applicant wherein too it was observed that "It is a well settled law with the mandate of the dictums of the superior court of the country that to remain posted at a particular place is not the vested right of any civil servant / government employee, therefore, no fundamental right of the appellant has been infringed."
7. Coming back to main issue of this case, beside the state of allegations which have been leveled by respondents in charge sheet which at another forum has been taken as grievance by complainant, have altogether been examined by inquiry officer and all of them had gone against applicant. Non-cooperative attitude of applicant during inquiry proceedings and attempts to linger on matter by filing petitions one after another also reflects conduct of complainant to perform her duties in irresponsible manner.
8. So far as allegation that an amount of Rs. 6000/- were deducted from her salary without any cause. DPWO Muhammad Shoaib Junior Clerk of District Population Officer has produced applicant's application dated 09.12.2009 as D/31 against deduction of amount of Rs. 6000/- from salary of November, 2009. In reply to that Accountant DPWO Islamabad B.S Qaisrani on 18.12.2009 has reported to District Population Officer that as

"Mst. Tabassum-un-Nisa FWW / applicant was in dire need of money in connection with some sort of admission etc, and on your good self per direction I handed over Rs. 6000/- to her through Mr. Muhammad Shoaib LDC.

I handed over said amount from my own pocket just to obey from excellency / verbal orders with mutual commitment made before your by official, same will be deducted from her monthly salary."

And that amount was deducted from her salary of November, 2009. This

statement of Accountant Muhammad Shoaib DPWO B.S Qaisrani at Page 77 of main file with reference to letter dated 18.12.2009 has not been rebutted by complainant in cross examination of this very witness.

9. So far next allegation that an attempt of kidnap was made by respondent also does not find support from record as no FIR of alleged incident was got registered by applicant. Applicant has given excuse of non-filing of FIR that as she belong to respectable family therefore in order to avoid any defaming rumor she has not reported that matter before police. This stand taken by complainant at stage when she has filed complaint before FOS on 14.09.2015 without any specific date of incident and without any report seems to be an afterthought issue, as in non of writ petitions filed by her at different forums no such allegation was ever leveled by her. It is further alleged that after order of FST opponents particularly DPWO Riaz Ahmed at instance of Zagheem Shah had used unparliamentary and defamatory language against her, but beside herself not a single witness has been produced by her to support her allegation of using defamatory and unparliamentary language by respondents against her. Only use of word "harassment" or "defamatory language" does not make out a case of harassment against opponents until unless same is proved with sufficient evidence which is missing in present case.
10. It appears that when applicant failed to discharge allegation leveled against her she has tried to come up with this new ground of harassment which apparently she failed to prove because rest of allegation leveled by her are of administrative nature and it has rightly been observed in writ petition No. 1406/2014 by Islamabad High Court in order dated 27.03.2014 that there has been a chequered disciplinary history of complainant behind her transfer.
11. In view of above, review petition as well as main complaint having No. 1(203)/2015-FOS(Reg) are hereby dismissed for want of sufficient

evidence.

12. Announced in open court.

13. Parties be informed accordingly.

JUSTICE (R) YASMIN ABBASEY
Federal Ombudsman