



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

**TITLE: Waqas Zaheer Baig Vs Deputy Postmaster General (Admin) & others**

**ORDER**

1. Appeal Number: 1(454)/2018-FOS-Reg
2. Date of Institution: 12-04-2018
3. Date of Order: 10-01-2019
4. Appellant: Waqas Zaheer Baig  
Assistant Superintendent  
Post Offices,  
Rawalpindi
5. Respondents:
  - i. Deputy Postmaster General (Admn)  
Northern Punjab Circle  
Rawalpindi
  - ii. Ms. Shama Pervaiz  
Stamp Vendor,  
AMC Post Office  
Rawalpindi
  - iii. Dr. Najeeb Ur Rehman  
Chief Post Master
  - iv. Imran Latif  
Assistant Director (S&E)  
Office of Post Master General  
Northern Punjab Circle  
Rawalpindi
  - v. Syeda Naila Batool  
Divisional Superintendent  
Postal Services  
Office of Divisional Superintendent  
Jehlum

# OFFICE OF THE OMBUDSMAN

## Islamabad

### FORM OF ORDER SHEET

Appeal No. 1 (454)/2018-FOS (Reg)

Serial No. of Order of Proceedings	Date of order of Proceedings	Order of other proceedings with Signature of Federal Ombudsman <b>TITLE: Waqas Zaheer Baig Vs Deputy Postmaster General (Admin) &amp; others</b>
1	2	3
	10-01-2019	<p>Appeal No. <u>1 (454)/2018-FOS</u> (Reg)</p> <p>Through this order, this Forum intends to decide upon the appeal filed by Waqas Zaheer Baig hereinafter referred to as "Appellant" assistant superintendent, Pakistan Post against the Impugned order dated 09-03-2018.</p> <p>Para 4 of the impugned order reproduced here below:</p> <p><i>“The competent authority shall impose the penalty recommendations made by the inquiry committee under Section 4 of the Protection against Harassment of Women at Workplace Act, 2010 and in exercise of the powers delegated under Section 4(5) of the act ibid impose the major penalty reduction to one lower stage in his pay for one year without future effect”.</i></p> <p>Brief facts of the case are that Shama Pervaiz hereinafter referred to as "Respondent No.2" was also working as a stamp vendor in Controller Military Account (CMA) post office Rawalpindi city. On 26.05.17, she filed a complaint to Deputy Post Master (Admin) Pakistan Post. Wherein she stated that Assistant Superintendent Post Office south Cantt was proposing her transfer from Army Medical College (AMC) Post Office without jurisdiction as no post of stamp vendor existed at Controller Military Account (CMA) Post Office. She alleged that the Appellant did not allow the postmaster to grant her leave and forced her to call him on his personal number. Moreover, another allegation by Respondent No.2 was that the Appellant forced her to leave the seat of postmaster on his arrival and</p>

		<p>insulted her.</p> <p>The matter was referred to Inquiry Committee by the Postmaster General northern Punjab circle, Rawalpindi on 04-08-2018. The proceedings of Inquiry Committee were held on 10-08-2017 in the chamber of Assistant Post Master General.</p> <p>On 04-08-2017 based on the complaint by Respondent No.2, a memorandum was sent to the Appellant to clear his position. Inquiry was initiated and both the parties appeared before the Inquiry Committee. The Appellant submitted his reply and denied all the allegations leveled against him.</p> <p>The Inquiry Committee recorded the statements of Respondent No.2, Appellant, Nabeel Anjum, Muhammad Nazir, Muhammad Serfraz, Ms. Robina Shaheen and Tahira Rasheed. The Inquiry Committee completed its proceeding and submitted its report recommending the imposition of major penalty i.e. reduction to one lower stage in his pay for one year without future effect.</p> <p>In his appeal, the Appellant argued that the Impugned Order was against the law and facts of the case. As there was no harassment in the first place and the complaint was filed with a malafide motive. Moreover, he stated that the Inquiry Committee was biased and was not constituted as per the requirement of law. He alleged that the Inquiry Committee did not provide him ample opportunity to defend himself and that the Inquiry Committee was in violation of Section 4(5) and Section 4(4) of the Protection against Harassment of Woman at Work Act 2010. Produced as below:</p> <p><i>Section 4(4) of protection against Harassment of woman at work place 2010 Act which says that the inquiry committee shall submit its findings and recommendation to the competent authority with thirty days of the initiation of inquiry. If the inquiry committee finds the accused to be guilty it shall recommended to the competent authority for imposing following penalties.</i></p> <p><i>Section 4(5) states that the competent authority shall impose the penalty recommended by the inquiry committee under section 4</i></p>
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***within one week of receipt of the recommendation***

The Appellant's argument was that the Inquiry Committee awarded the punishment in January 2018 whereas the Appellant was granted the punishment on the basis of same inquiry report on 09-03-2018 thus the punishment awarded to the appellant is without jurisdiction. ***It is a well established principle of law that when law requires a thing to be done in a particular manner, that thing has to be done in that particular manner and not otherwise***, therefore, the impugned order is null & void in the eyes of law and is set aside.

The Inquiry Committee while concluding the inquiry in para 6(a) of its report stated that the Appellant failed to produce working papers to justify Respondent No.2's transfer. He also forced Respondent No.2 to call him on his personal phone which was not proven in the investigation. Moreover, he forced Respondent No.2 to leave the seat of postmaster on his arrival in the office and insulted her. This was also not proved.

The Appellant stated that the Inquiry Committee did not provide him with the already submitted requisite documents and claimed that the punishment awarded on the basis of recommendations of the Inquiry Committee was not justified in the report of Inquiry Committee.

On the other hand Respondent No.2 took the ground that Appellant was clearly guilty of sexually harassing her and on this act he was only demoted by one scale which is not enough and needs to be enhanced.

Arguments from both the sides were heard. Perusal of the record shows that the main allegations against the Appellant were that he was proposing her transfer from AMC PO without justification. He did not allow Respondent No.2's leave application and forced Respondent No.2 to call him on his personal number. These allegations have no nexus with the reality and remained unproved during the Inquiry Proceeding. Same is evident from the record available on the file. The Inquiry Committee was in sheer violation of Section 4(4) and Section 4(5) of the Protection against Harassment of

		<p>Women at Workplace Act, 2010.</p> <p>Moreover, the Inquiry Committee was in contravention of Section 9 of the Protection against Harassment of Women at the Workplace (Filing and Disposal of Complaints) Rules, 2013. Produced as below:</p> <p><i>Section 9 of the Act 3013 Imposition of penalty. On receipt of recommendations and findings of the inquiry committee or the ombudsmen, the competent authority shall, within one week of receipt of the recommendations and findings, imposed the penalty recommended by the inquiry committee or ombudsman or otherwise refer back the case to inquiry committee with observation to be addressed immediately.</i></p> <p>Lastly, the Inquiry Committee examined the allegation of spreading of rumors within the organization but as mentioned in the report itself the statements from staff or officers were not made in this context.</p> <p>For the aforementioned reasons, this Forum disagrees with the findings of the Inquiry Committee. However, there is no doubt that mischief has been caused by the Appellant to the effect that the office environment became unpleasant. This Forum does not wish to dwell into the issue whether Nabeel, Post Master, was ‘forced’ by the Appellant, as he is an adult and the allegation does not attract a reasonable prudent mind. Similarly, exchange of phone numbers is common between colleagues and the Appellant should have been careful and responsible enough not to forward or float Respondent No.2’s number in such a manner.</p> <p>Therefore, in view of the above mentioned discussion, impugned order dated 09-03-2018 is hereby set-aside.</p> <p style="text-align: right;"><b>OMBUDSMAN</b></p>
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