



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

J U D G M E N T

1. Complaint Number: 1(22)/2011-FOS
2. Date of Institution: 10-11-2011
3. Date of Decision: 08-05-2013
4. Complainant: Zobia Sultana
Deputy Director, Lok Virsa,
Islamabad.
5. Respondent: Shahzada Alam
Stenotypist, Lok Virsa, Islamabad.

Yasmin Abbasey,

Ombudsman:

This matter arises out of complaint No. 1(22)/ 2011-FOS

1. Brief facts of the case as narrated in the complaint are that complainant is serving as Acting Deputy Director (Research) National Institute of Folk & Traditional Heritage, (NIFTH) Lok Virsa, Islamabad since November 2009. She complained that opponent a Stenotypist in the same institution was attached with complainant to assist her in official matters. During the period he remained with the complainant was a constant threat to the complainant because of his indecent behaviour which opponent deliberately and intentionally was doing. He oftenly tried to touch the complainant or request for sexual favour. Due to physical conduct of sexual nature of opponent complainant was facing problems that adversely was an act of interference in her official work.
2. Complainant counseled opponent many times at her own. In

order to maintain the honour and dignity of the institution she tried to control the situation and did not complained to any one but finding no way out she approached to the competent authority of Lok Virsa for taking appropriate action against opponent. Executive Director of Lok Virsa after holding inquiry found opponent guilty of offence complained by complainant and transferred him in Admin and Account Section of Lok Virsa with a warning to be careful in future.

3. It is alleged that inspite of this warning and transfer opponent did not mend himself and made a routine of a standing at main path way / stairs and started creating problems for complainant. As such complainant again wrote an official note to competent authority on 11-10-2011. On knowing the fact of this complaint opponent threatened her for dire consequences.
4. On 12-10-2011 when complainant was present in corridor of National Database of Cultural Assets Centre, NIFTH Lok Virsa

opponent suddenly appeared there and attack on her in order to outrage her modesty Mst. Aziz bibi and other employees of Lok Virsa who due to noise came there , they are eye witnesses of the incident. That matter immediately brought in the knowledge of competent authority of Lok Virsa and concerned police station was also informed. It is because of this attitude of opponent this complaint has been filed against opponent who is a constant cause of harassment to her which adversely is affecting her work performance. He is creating worse environment for the complainant where she can not work in comfort and respectable way.

5. Opponent in his reply to the allegation made by the complainant had refuted all of them. It is stated that complainant has moved this complaint with malafide intention and ulterior motive to remove him from government service. There is nothing adverse on his personal file nor any case ever initiated against him on disciplinary grounds.

6. Opponent has further stated that during the last two years complainant ever complaint against him because no such incident as alleged against him ever took place. It is further stated that the letter dated 27-5-2010 said to have been submitted by complainant is false and fabricated and no action was taken there on against him. It is further denied that as per government rules letter of 27-5-2010 was ever communicated to him. In fact this letter was written on 12-10-2011 in order to filed a police case against opponent at Aabpara police station with a connivance of Khalid Javed who is Chief Executive of this organization and that was subsequently filed by very Khalid Javed before Ombudsman in case No.1(4)/FOS-2011 on 25-10-2011.
7. Highlighting the background of letter dated 25-10-2011 said to be drafted on 12-10-2011 opponent has placed 03- copies of this letter on record. As per statement the first copy of 12-10-2011 was submitted to ASI Aabpara but that complaint was disposed of as false. The second copy was submitted by Khalid

Javed, Chief Executive Officer on 25-10-2011 before court and third one was submitted by complainant to Ombudsperson. All these three copies were never submitted to NIFTH administration nor were verified by the administration which is clear violation of the authority.

8. On 12-10-2011 a formal written complaint was lodged with the Director NIFTH that complainant was abusing, threatening, insulting and deliberately inciting opponent to provoke him and then make a case against him.
9. Despite report of police station Aabpara that case lodged against opponent is false, Khalid Javed, Chief Executive NIFTH suspended him against the rules and banned his entry in office on the pretext that opponent is a security threat. Opponent never received any warning letter, all of sudden he was transferred to Accounts away from complainant's room. Allegation of annoyance and sexual favour as alleged are false and frivolous. No such case was ever lodged against him.

Mst. Aziz Bibi is close associate of complainant and lives with her. None of the senior officials of Lok Virsa or its employees were witnesses of any such incident of 12-10-2011 as alleged. Infact this is another attempt of Zobia Sultana and Khalid Javed to remove him from service by placing fabricated documents, complainant is misleading the court. She is, Chief Executive of NIFT, and because of her hold in the office she has relation with Khalid Javed which she used to file this complaint. It is alleged that complainant's dishonest and immoral activities have jeopardized the career of honest and hardworking employees like that of him.

10. It is prayed that complaint be dismissed with a major penalty.
11. Complainant examined herself and 04 more witnesses in her support whereas opponent also examined himself and two more witnesses. On 28-3-2013 when the matter was fixed for production of further evidence on behalf of opponent, an application was moved by father of opponent that due to

critical health condition, opponent is unable to respond and appear before this forum and requested for time. He was directed to file the medical certificate of the hospital wherein the opponent was admitted on the next date of hearing and matter was adjourned to 03-4-2013.

12. On 03-4-2013 non was present on behalf of opponent nor any medical certificate of opponent was placed on record. After waiting up to 12:00 noon the side of opponent was closed and the matter was fixed for arguments. On 17-4-2013 again non was in attendance on behalf of opponent however complainant's counsel argued the matter. During the course of argument it was noticed that although as per diary witness produce were cross examined but there cross examination are not available on the record. Office pointed out that cross examination recorded are available in data of computer but without signature of than presiding officer the same cannot considered for the purpose of disposal of this complaint and cannot be considered to be authentic.

13. It is alleged by complainant that opponent was attached to her office as Stenotypist but just after attachment the behaviour of opponent was not proper and decent and on he deliberately and intentionally tried to had sexual favour from her which had adversely affected on complainant performance. According to complainant first she admonish the opponent to correct his behaviour but when she failed in her effort she made complaint to his competent authority by putting an official note. On her note the Executive Director of Lok Virsa call the accused in his office and made an inquiry and found the charge leveled by complainant as corrected. According to complainant when her complaint was found correct against opponent he was transfer in Admin & Account section Lok Virsa and warned him to be careful in future.
14. In contrary to it opponent in his defense filed on 11-01-2013 has not specifically denied the initially note of complainant and the action taken there on of his transfer in Admin and Account Section however he has denied allegation of sexual harassment

and has stated that the said complaint was moved just to remove him from service.

15. The statement of complainant of transfer of opponent from one section to another section of Organization has been supported by Administrative officer of Lok Virsa viz. Ashfaq Ahmed who has stated that “to save the service of accused me just transfer the accused from Lok Virsa to Administration office”. He has further clarified that it was just a verbal communication in order to protect his service.
16. In these circumstances the allegation of opponent that the letter dated 12-10-2011 moved at Aabpara Police Station against him was infact with a connivance of Khalid Javed, Executive Director of the organization and this is a case of flagrant abuse of authority does not seems to be covered, because if the intention of Executive Director would had been to harm him, some kind of warning must had be issued to him, on the contrary he was just transferred from wing to another. The contents of summary dated 12-10-2011 moved by this Khalid

Javed, Executive Director of Lok Virsa, and to Joint Secretary Ministry of Information and Broadcasting further support the case of complainant as to the incident happened on 12-10-2011 in the premises of Lok Virsa when opponent all of sudden attack on her and tried to outrage her modesty.

17. The record further reveals that incident of 12-10-2011 happened in the premises of organization have not been denied by either of the parties but both of them had narrated the same as per their own version but still the call of police in organization and arrest of opponent from there has not been denied by both of them. Complainant and her witnesses have supported the case as detailed by complainant in his application before this forum and as stated in her affidavit in evidence, whereas according to opponent he has been falsely implicated in this matter because of giving statement in a matter proceeded in between complainant and an employee of this very organization viz. Mst. Hina Mufti, and has not supported the case of complainant in that matter therefore in retaliation

and to damage him these false allegation have been leveled against him and he was illegally got arrested by the complainant.

18. Inspite of this statement of opponent the action taken by competent authority on 12-10-2011 to send opponent on forced leave and banned his entry in Lok Virsa premises till further orders due to security reason some how support the case of complainant.
19. The record further reveals that an inquiry committee was constituted to examine the complaint made by the complainant before the competent authority and on 17-01-2012 opponent was charged sheeted. The original report of inquiry committee inspite of calling by this forum has not been placed on record but second report of revisit of inquiry report on 30-01-2013 has been placed on record. From the perusal of this report revisited on the request of administration it was finally concluded that “the opponent has provided copy of official record (i.e. Pay role, pay voutures and minutes of BOG) to his brother

Khanzada Alam who filed the case in Islamabad High Court and finally it was concluded that after going through the complete service record of accused and copy of affidavit complainant and the witnesses, the committee concludes that in the past administration took lenient view for his betterment and no action was taken against him.

20. On 25-3-2013 again the same inquiry committee had expressed that as both complainant and accused shown their mistrust upon the inquiry committee in writing and complaint regarding incident occurred on 30-01-2013 in the office of Executive Director has already been sent to Secretary Ministry of Heritage and Integration which is a highest authority so it is recommended that the case may be finalized as per rules.
21. Thereafter what happened in the Ministry of National Heritage and Integration is not on record. Irrespective of the observation to be taken by Ministry of National Heritage and Integration the allegations leveled and the fact brought on record made by the complainant and her witnesses have not been specifically

denied by the opponent and his witnesses. They all tried to twist the incident in against to complainant to be a counterblast to the case proceeded in between complainant and Hina Mufti before this very forum of Federal Ombudsman. Wherein opponent was witness on behalf of Mst. Hina Mufti.

22. Although the facts of that case have not been brought on record but the statement of Hina Mufti is to be read very carefully as the element of being interested witness can not be ruled out.
23. As per opponent statement made in his defence the inquiry committee of organization on 12-5-2012 had declared him as innocent but copy of the same had not been placed on record. According to opponent as copy of that inquiry report was not provided to him because of pressure of Khalid Javed therefore he can not produce the same does not seem to be reasonable because if there was anything favourable to him in the inquiry report of the organization he could had called the same through this forum but no such attempt was made by him. On the contrary the second report of 30-01-2013 and 25-3-2013 has

shown him guilty of the offense of the charge proceeded against him

24. In view of above discussion I am of the view that complainant has been able to establish her case, complaint is hereby allowed.
25. The record is silent as to whether opponent is still serving in Lok Virsa organization or not. If it is so, the LoK Virsa organization is hereby directed to remove the opponent from service with immediate effect. Compliance report be submitted within one week's time.

YASMIN ABBASEY
Ombudsman