



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

J U D G M E N T

1. Complaint Number: 1(163) / 2015-FOS (Reg)
2. Date of Institution: 15.06.2015
3. Date of Decision: 18.09.2015
4. Complainant: Mst. Zoya Raza Khan,
Fauji Fertilizer Bin Qasim Limited
(FFBL) Plant Site,
Karachi.
5. Opponent:
 - i. Abid Qayum Alvi
Sub Engineer, Fauji Fertilizer Bin
Qasim Limited (FFBL) Plant Site,
Karachi.
 - ii. Kashif Ejaz Khan
Unit Manager (L&D), Fauji
Fertilizer Bin Qasim Limited
(FFBL) Plant Site,
Karachi.

Justice (R) Yasmin Abbasey,

Ombudsman:

Complaint No. 1(163)/ 2015-FOS.

1. Complainant joined FFBL as Apprentice Engineer on 13-09-2013, thereafter by appointment letter issued on 27-11-2013 she was taken up as Executive (Projects) w.e.f. 07-11-2013. As per terms and conditions of service executed on 27-11-2013 her service for the first 3 months was on probation which was extended at the discretion of management. Record shows that on 18-02-2014 her probation period was extended for 30 days up to 08-03-2014 with an advice to take interest in work and improve her performance.
2. It is alleged by complainant that opponents Abid Qayum Alvi who is Sub Engineer in FFBL and Kashif Ejaz Khan, Unit Manager (L&D) have made her life miserable by constantly bullying her one way or other for sexual favors and to their illegal, unlawful, immoral, unethical wishes. When opponents failed in their efforts to gain their illegal desires they started creating interference in making the environment of working place hostile. It is stated that she made several complaints to his superiors but no action was taken there on. Finally she resigned on 15-12-2014. After resignation she moved an application to Chief Executive and Managing Director, FFBL. But no action was taken there on by Management of FFBL but a notice was served to her by opponent Abid Qayum Alvi through his council on 09-05-2006 which was replied by complainant on 17-05-2015. Opponent no. 1 and 2 in their defense have denied the allegations leveled

by complainant on them. Defense was filed by opponent no. 3 and 4 wherein it is clarified that complainant had never filed any verbal or written complaint to any member of management on the ground as alleged in the complaint. Her admission in this context is on record via email dated 05-05-2015. Extension in probation period and transfer to different department is at the discretion of Management which was agreed by complainant as per terms and condition dated 27-11-2013.

3. Complainant at her own accord voluntary resigned for her better future prospects. Moreover complainant's poor performance and discipline attitude rendered her unfit for the job in FFBL. Till the time of her resignation complainant had no issue of harassment within the Management as have been alleged by her in her application dated 18-02-2015. As per terms of compulsory service signed by complainant she was bound to serve FFBL for four years but if an employee leave service of FFBL, he or she has to pay an amount required as per terms which in case of complainant is Rs. 300,000/- which she has failed to deposit till date.
4. It is further stated that opponent Abid Qayum Alvi is no more an employee of FFBL.
5. Notices were issued to opponent no. 1 and 2 but they failed to appear before this court, therefore, by order dated 06-07-2015 matter was ordered to proceed ex-party against them.

6. On 10-07-2015 by letter dated 06-07-2015 it was informed by FFBL that one of opponent Kashif Ejaz Khan, Unit Manager (L&D) is seriously ill and is hospitalized.
7. On 12-08-2015 by letter of legal advisor of FFBL it was again informed that opponent Abid Qayum Alvi retired on 08-08-2015 on attaining the age of superannuation and opponent Kashif Ejaz Khan, Unit Manager is admitted in Agha Khan University Hospital, Karachi and is on ventilation and is bed ridden.
8. Heard complainant in person and Hamid Mehmood, Legal Advisor and perused record. My findings are as under:-

From the perusal of record it appears that although she has alleged serious nature of allegations of sexual harassment against opponent no. 1 and 2 but it is also an admitted fact that from the date of her appointment that is 13-09-2013 till 18-02-2015, when first application was moved by her to Chief Executive and Managing Director FFBL, no such complaint was ever moved by complainant to any of the officials of FFBL either through a hard copy or through email. According to complainant she complained against opponent no. 1 and 2 verbally, but except stating that such verbal complaints were made by her to "various officials" no specific name has been given by her so that they can be called to support her statements. Even otherwise complainant has also not been able to explain that what restrained her to move a written complaint against illegal and immoral alleged acts of opponent while she was serving in FFBL, because

if she knew that there is such law for Protection against Harassment of Women at Workplace and thereby it is mandatory to display Code of Conduct in the premises of Management and to constitute an inquiry committee under the Act of 2010 then it is unbelievable that she was ignorant of the fact that by the very Act she has an opportunity to file formal or informal complaint before any official of Management at any time but that opportunity was not availed by her.

9. Beside the issue of harassment it is further alleged that on completion of her probation period instead of issuing confirmation letter her probation period was extended by letter dated 18-02-2014 with direction to improve her performance. That shows a non-serious conduct of complainant because another letter of counseling of 14-05-2014, at page 97 of record, show that Divisional Manager HCM of FFBL has categorically intimated to complainant that:-

“It has been observed that you have not been participating enough to make your stay at the company useful. It has also been brought to the notice of the Management that certain uncalled for incidents have taken place even after the counseling session by Mr. Tanweer Alam (Senior Manager HCM) in which you specifically mentioned that : I promise there would be nothing wrong from my side hereafter”. What also puts us in a difficult position is that your attitude has been deteriorating, job interest has been eroding and leaves

have been increasing ever since.”

10. It is to be noted that even after this letter of advice of 14-05-2014, complainant never made any complaint against the alleged acts of sexual harassment of opponent no. 1 and 2 and causing interference by them in her working because of non-fulfillment of their desire. Poor performance of complainant also reflects in her Evaluation Form of 14-02-2014. It appears that to cover up her disciplinary problems and poor performance complainant is following up this line of alleging issue of sexual harassment against opponent no. 1 and 2 so that she can rejoin the institution once again. Otherwise after advice to improve her performance at the time of her extension of probation on 18-02-2014, after Evaluation Report of 10-03-2014 and letter of advice issued to her on 14-05-2014, if she would have been facing such issue she would definitely have complained against them. On the contrary while resigning from service on 15-12-2014 she has given very appreciating remarks to FFBL that:-

“The time I have spent at FFBL has been most rewarding and helpful in my career and I hope that my devoted contributions to the company have been constructive, professional and result oriented. I am extremely grateful to the management for providing opportunities to grow and groom.”

11. Here it will not be out of place to mention that though complainant has tried to show that in spite of her good performance, her probation period was unnecessarily extended, and she still has not been regularized; this ill

knowledge of complainant towards her own service status supports the case of opponents FFBL to show her lack of interest because letter dated 02-02-2015 show that she was confirmed as regular employee on 07-09-2013. To show complainant's attitude an email by Mehboob Ahmed, Engineering Head has also been produced at page 140 and 141 of record. By this email Mehbood Ahmed has reported that on 12-04-2014 when Ahmad Nawaz, Section Manager & Lead PTE called complainant to discuss job status and counseling related to frequent sick leaves, during discussion she became loud and started shouting on Ahmad Nawaz. When all came out of office cabins, she picked her bag and left the desk and office and went out, however, Mehboob Ahmed, Engineering Head succeeded in calling her back but she came in a very angry mood which was seriously taken up by General Manger (Technology) with a remark that:-

“We still maintain our stance and once again recommend **not** to extend the probation period any further and release the individual from company services with immediate effect. It is a disciplinary matter and cannot be over looked or delayed any further please”.

12. Above discussion reveals that it was the attitude problem of complainant who made her life miserable within FFBL because in inspite of her own attitude Management of FFBL was gracious enough to waive off bond of Rs. 3000,000/- by order dated 29-01-2015 at page 179 and 180 of this

file.

13. In view of above case of complainant is hereby dismissed having no merits, with no order as to cost. Parties be informed accordingly.
14. Announced in open court.

JUSTICE (R) YASMIN ABBASEY
Federal Ombudsman