



FEDERAL OMBUDSMAN
For Protection against Harassment of Women at Workplace
Islamabad

J U D G M E N T

1. Complaint Number: 1(322) / 2017-FOS (Reg)
2. Date of Institution: 27-02-2017
3. Date of Decision: 08-08-2017
4. Complainant: Mst. Afsheen Saira
Senior Clerk
Office of Executive Engineer
City PESCO Haripur Hazara
5. Opponents:
 - i. Ajmal Khan
Deputy Manager Operation
City Division
PESCO Haripur Hazara
 - ii. Rahat Gull
Divisional Accountant
City Division
PESCO Haripur Hazara

Justice (R) Yasmin Abbasey,

Federal Ombudsman:

Complaint No. 1(322)/ 2017-FOS.

1. Complainant who is Senior Clerk in the office of Deputy Manager City Division Operation PESCO Haripur Hazara KPK has filed this complaint against officers of same company of same institution namely Rahat Gull, Divisional Accountant and Ajmal Khan Deputy Manager. According to complainant she joined PESCO as Senior Clerk on 28-02-2011 and was posted with Divisional Accountant in office of Deputy Manager PESCO Haripur Hazara. It is alleged that opponent Rahat Gull by interfering in personal life of complainant has created environment of harassment which is causing mental pressure on her. It is further alleged that opponent Rahat Gull use harsh and indecent language. Complainant is in fear that he may cause any physical torture to her. In this state of mental torture complainant met with road accident. On advice of doctor to have bed rest she applied for 4 days medical leave. Before applying leave Divisional Accountant was accordingly informed, in spite of that Divisional Accountant misusing his powers had deducted pay of 7 days from salary which is a violation of rules and regulations of department.
2. According to complainant Divisional Accountant was harassing her because he wanted her to claim bogus TA/DA and then pay 40% commission to him. When complainant refused this proposal he started threatening her to leave job. When this fact was brought in knowledge of Deputy Manager Ajmal Khan he did not take any action, on contrary threatened her not to move any complaint in writing against Divisional Accountant Rahat Gull. It is also alleged that Deputy Manager and Divisional Accountant had put a ban on her to use bathroom. Due to non facility of use of bathroom complainant's health has badly affected. Hence this complaint.
3. Opponent No. 1 Ajmal Khan in his defense had denied all allegations leveled against him. Complainant has never reported any grievance cause to her to him verbally or in writing. Medical leave of complainant is under process. Fitness certificate was submitted by her on 28-12-2016 which has also been sent to Superintendent Engineer Operation PESCO Haripur Hazara, Circle-1, Abbotabad for necessary action under letter dated 11-01-2017. Demand of opponent No. 1 of 40% commission on TA/DA bills to be submitted by complainant has been denied.

- Opponent has never restrained complainant to use bathroom. There are 6 bathrooms available in office for use of general staff.
4. Opponent No. 2 Rahat Gull has also denied allegations of harassment and insulting attitude alleged by complainant. Medical leave of complainant is under process. No salary of 7 days medical leave has been deducted. Only 40% hard area allowance of Rs. 372/- and conveyance allowance of Rs. 645/- have been deducted, which is not admissible during leave period, therefore there is no violation of any rules and regulations. Allegation of 40% commission on TA/DA bills is baseless. There are 6 bathrooms in vicinity of this division and other ladies posted in division are using the same. In fact complainant wants to attend office at her sweat will which was not acceptable to the organization. Complaint is liable to be dismissed.
 5. Complainant in her complaint filed on 27-02-2017 beside raising direct interference of opponent Rahat Gull in her personal affairs which is causing mental torture to her has also raised other issue of departmental illegalities which directly and indirectly is cause of creating disturbance in working environment. Although allegation of interfering in personal life of complainant has been denied by opponent Rahat Gull in his defense and so also complainant in her affidavit in evidence except stating that attitude of opponent Rahat Gull of interfering in personal life is constant mental torture to her, has not given any details of inference in personal life either in complaint or affidavit in evidence, but opponents have failed to explain that when in an application at Page-99 of file was moved by complainant to Director General HR&M PESCO Wapda house Peshawar reminding her previous applications moved on 22-02-2017 and CEO of PESCO has assured that inquiry committee will be constituted to investigate the matter, why no step was taken thereon.
 6. In contrary to that opponents by placing documents of Superintending Engineer Operation PESCO Haripur Circle 1, Abbotabad of 16-03-2017 has tried to show that complaint lodged by complainant was baseless and has no reality. This observation of Superintending Engineer Operation without holding inquiry on complaint seems to be very unsubstantial, because while making this observation of baseless it is further stated in this letter that complainant on inquiry has shown her unawareness about any complaint / allegation against PESCO officers / officials of City Division Haripur and finally it was observed therein that some other one is doing all such on behalf of complainant to pressurize City PESCO

management Haripur to gain undue favor. If this would had been fact no reason has been given by opponent or by Superintending Engineer Operation in his very letter of 16-03-2017 that if there was no issue then why she has filed complaint before office of FOS. From record she has been able to prove that on one reason or the other both opponents without any justification were making hostile and offensive office environment for complainant.

7. To support her contention complainant has placed the difficulties created by opponent in grant of medical leave applied by complainant in December 2016. According to complainant as per advice of doctor she had applied for 4 days medical leave, but she was pressurized by opponent Ajmal Khan to move 7 days casual leave instead of 4 days. What was the reason behind that neither has been explained by opponent Ajmal Khan nor there is any documentary proof of such suggestion which admittedly has been given to complainant by opponent No. 1 that "it is correct to say that I had suggested complainant to have casual leave of 7 days instead of 4 days". To justify his suggestion a letter of 23-12-2016 of XEN Operation PESCO has been placed as exhibit O/4 stating that as doctor has advised her for 7 days rest medical and she has also availed 7 days leave, "therefore she is directed to submit earned leave performa with fitness certificate for 7 days for this office for taking further necessary action". But it cannot be overlooked that in attendance sheet placed on record at Page 106 only 4 days casual leave are shown to have been availed by complainant and doctor too in his certificate placed at Page 104 of record had only suggested 4 days bed rest. In spite of that before grant of leave direction of opponent Rahat Gull not to process salary for 7 days till sanction of leave seems to be very unreasonable because at one end officer of the institution is directing complainant to apply casual leave for 7 days, and on other hand other officer without any justification ordering to stop salary on the base of record is a undue pressure on complainant which is a kind of harassment towards complainant because it has been admitted by opponent Ajmal Khan in his cross examination that an amount of Rs. 372/- hard area allowance and Rs. 645/- conveyance allowance was deducted from salary of complainant whether his deduction from salary was of 7 days or 4 days has not been explained by opponent. Further leave rules as provided by opponent does not show that in case of casual leave these allowances are to be deducted from salary of an employee of PESCO.
8. Next allegation of complainant is that from February 2011 she was serving in

office of Divisional Accounts section but after institution of this complaint before FOS all of sudden just to create further harassment she has been transferred to TIP Sub Division Haripur. This transfer order in a corrigendum issued on 18-05-2017 show that "Mst. Afsheen Saira, Senior Clerk / UDC posted in TIP Sub Division Haripur on current charge basis against post of Admin Assistant / Head clerk". It is contended by complainant that at present she serving as Senior Clerk in BPS-11, but her posting at a post of Assistant Admn Head Clerk in BPS-15 where one Gohar Rehman is already serving and has not handed over its charge seems to be very illogical. Further no sanction post of Senior Clerk / UDC in BPS-11 is existing in TIP Sub Division as well as in other Sub Division of office. Therefore this transfer too was in chain of harassment already being going on with her. This fact that no post of BPS-11 exists in TIP Sub Division Haripur has been admitted by opponent No. 1 Ajmal Khan in his cross examination that "it is correct that there is no post of grade-11 in TIP Division, however she has been posted on current charge basis. If this statement of opponent No. 1 Ajmal Khan is taken as correct that she has been posted on current charge basis then also there should had been post of that grade where in complainant at present is serving. So far as transfer on post of Gohar Rehman is concerned ignorance of opponent Ajmal Khan that whether Gohar Rehman is still working on same post where complainant has been transferred either show his negligence in administrating work or deliberate omission just to put complainant in pressure.

9. Record further shows that in spite of moving application by complainant on 22-05-2017 to CEO PESCO with reference to this illegal transfer of her to post of BPS-15, no action was taken thereon by department nor mistakes admittedly committed by opponent No. 1 was tried to be rectified.
10. In against to all these allegations it is stated by opponents that in fact issue behind all these allegations leveled by complainant against them is to hide her unpunctuality to attend office and to pressurize management to perform duty in office at her own choice, but at the same time it is admitted by opponent Ajmal Khan in his cross examination that neither he had issued any show cause notice to complainant for not following punctuality nor any inquiry in that regard was ever conducted against her. In absence of any satisfactory prove of her unpunctuality mere statement that they had not taken any action against complainant because of pendency of this case is not a reasonable ground because this complaint was filed on 27-02-2017, but allegation as leveled by opponent is of her past conduct

but not a single document has been placed on record to show that complainant was not responsible in performing her duties and observing duty hours in PESCO.

11. So far as issue of bathroom as raised by complainant is an administrative issue and can be settled by impartial officers or administration of management of PESCO because admittedly there are 6 bathrooms in building where complainant is serving and this minor issue can be settled easily.
12. Upshot of above discussion is that both opponents have been part of creating hostile and offensive work environment for complainant in office and in one way or other as discussed above tried to create nuisance for complainant because harassment and nuisance cannot be narrow down to any specific act as a consistence pressure on victim also falls within definition of harassment.
13. In view of above I hereby impose minor penalty of issuance of letter of censure by management against both opponents under Section-4 Clause 4(1)(a) of Act of 2010.
14. Complaint disposed of accordingly.
15. Issue letter to management of PESCO to implement the order of this FOS within 15 days and report to this office.
16. Announced in open court.

JUSTICE (R) YASMIN ABBASEY
Federal Ombudsman