

OFFICE OF THE FEDERAL OMBUDSPERSON

FOR PROTECTION AGAINST HARASSMENT OF WOMEN

AT THE WORKPLACE, REGIONAL OFFICE LAHORE

ORDER SHEET

COMPLAINT NO: FOH-LHR/00000025/2024

Date of Institution: 30-07-2024

Serial No. of Order of Proceedings	Date of order of Proceedings	Order of other proceedings with Signature of Federal Ombudsperson		
		ALISHA MUKHTAR	VS	MAJOR ZEESHAN & OTHERS
1	2	DEPARTMENT: GENETICS PHARMA COMPANY		
38	28.08.2025	<u>SUBJECT: FINAL ORDER</u> 1. This order shall dispose of a complaint filed by Alisha Mukhtar (Complainant) against Zeeshan, Admin and Security Head (Accused No.1), Pervaiz (Accused No.2), Junaid (Pir Muhammad Raza), Assistant (Accused No.3), Fatima Adnan, General Manager HR (Accused No.4), Samia Zaheer, Quality Assurance Manager (Accused No.5) and Osama Mehmood, Manager HR (Accused No.6), all employees of the Genetics Health Care (Company), under section 8 of the Protection Against Harassment of Women at the Workplace Act, 2010 (Act of 2010). 2. The Complainant who worked in Genetics Health Care as a Senior Packing Helper in the Production Department has alleged that in the month of April 2024, she was sexually harassed by the Accused Nos.1 and 3 whereas Accused Nos.2, 4 to 6 caused harassment by facilitating them. Additionally, the Accused Nos.4 to 6 created an intimidating, hostile and offensive work environment for her. She asserts that when she resisted the harassment, she was terminated from service on 03.07.2024. 3. The Complainant has further alleged that the Accused Nos.1 to 3 called her alone in a room. Accused No.1 asked her to remove her mask and when she refused, he		

		attempted to forcibly take it off. He then made inappropriate remarks such as, “Tum bohot hot aur sexy lagti ho,” and further added, “Tight kapray pehna karo, aap ka figure aur bhi zyada acha lagega.” Accused No.3 asked for her phone number; suggesting late-night conversations. When the Complainant refused, he told her to be afraid of him. Accused No.2 also told her to accept their behavior and comply with their demands if she wanted to continue her job, stating, “Tumhari job save rahegi.” The following day, Accused No.5 called the Complainant to a separate room where Accused No.1 was also present and told her that she should comply with whatever was being asked by Accused Nos.1 to 3. She was also threatened that a false case would be filed against her and if she refused; she would be sent to jail and no one would marry her. Further, when the Complainant refused to comply, Accused No. 5 slapped her. 4. The Complainant further asserts that she endured such harassment for approximately two months. When she finally gathered courage to report the incident to Accused No.6, he responded rudely and dismissively. The Complainant then approached the Accused No.4 and informed her of the situation in detail but she replied that she was unable to help her and should abide by what the Accused No.1 and others had asked her. Following these events, on 3rd July 2024, Accused No. 4 issued a Closure of Service letter to the Complainant. 5. At the end, the Complainant requested that the Accused be punished for causing and facilitating sexual harassment to her and the Company be directed to pay her outstanding dues. 6. The Accused Nos.1, 3 to 6 have vehemently denied the allegations of harassment and rude behavior against them by maintaining in their written reply that they are false and
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		fabricated. They assert that the complaint was earlier filed before the Punjab Ombudsperson but was dismissed for non-prosecution. It is further maintained that Accused No. 4 never met the Complainant in person and that due to downsizing, the Company had issued a Closure of Service letter dated 03.07.2024 to her. It is further maintained that when the Complainant was called on 04.07.2024 to receive the letter, she refused to accept it. On 05.07.2024 she came to the office and was again asked to receive it but she insisted on meeting the Accused No.4 who was not present in the office that day. Therefore, the Accused No.6 contacted Accused No.4 telephonically to facilitate a conversation between them. However, the Complainant declined to accept the letter, behaved rudely with the Accused No.6 and left the office. The Accused No.2 has not turned up despite issuance of notices, hence he has been proceeded against ex parte vide order dated 17.12.2024. It is important to mention here that legal objections on maintainability of instant complaint raised in the preliminaries of written defense were decided vide order of this Forum dated 13.01.2025. While declining the objections it was observed that the Company was run by Genetics Pharmaceutical (Pvt.) Ltd. which is a trans-provincial organization and that, filing of an earlier complaint before the Ombudsperson Punjab does not debar the Complainant from approaching this Forum. 7. Thereafter, evidence of the parties was recorded. The Complainant as PW1 and her witness Irum Mukhtar as PW2 have deposed through affidavits Ex.P1 and Ex.P6 respectively. Screenshots of the Genetics Pharma website have been tendered as Ex.P2/1–4. Annual increment letter of the Complainant has been produced as Ex.P3 along with her promotion letter as Mark A. Screenshots of the LinkedIn profiles of the Accused Nos.
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		4 to 6 have been tendered as Ex.P4/1–3 and the Closure of Service letter as Ex.P5. Accused No.1 Zeeshan DW4, Accused No.4 Syeda Fatima Adnan DW1, Accused No.5 Samia Zaheer DW2, and Accused No.6 Usama Mehmood DW3, have deposed through affidavits submitted as Ex.D5, Ex.D1, Ex.D2 and Ex.D4 respectively. Documents pertaining to the complaint filed before the Punjab Ombudsperson alongwith dismissal order of non-prosecution passed thereon have been tendered as Ex.D3 and Ex.D3/1. After recording evidence of parties, Manager Abdullah was summoned as court witness and his evidence was recorded as CW1. 8. Finally, arguments were advanced by the counsels of both parties. Learned counsel for the Complainant has argued that consistent and corroborative evidence of the Complainant duly proves that she was sexually harassed at the workplace, impacting her dignity and creating a hostile, intimidating and offensive work environment to affect her ability to work. It was further argued that the Company had not complied with the provisions of the Act of 2010 involving creation of an Inquiry Committee, display of Code of Conduct at the workplace or imparting gender sensitive trainings to the employees. Reliance has been placed on the case law cited as Raja Tanveer Safdar Vs. Mrs. Tehmina Yasmeen and others (PLD 2024 SC 795) and Muhammad Din Vs. Province of Punjab through Secretary Population Welfare (C.P.L.A.2541/2023). 9. Learned counsel for the Accused No.1 has argued that the Complainant has leveled false allegations against the Accused No.1 due to grudge of her termination from service and also for being a member of the inquiry committee which interrogated her and other employees in a theft matter. He maintained that the alleged accusation was not proved against him as his evidence was consistent and corroborative. Learned counsel for the Accused Nos.3 to 6 has argued that the allegations were
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		not proved against the Accused who had remained consistent in their evidence whereas evidence of Complainant was full of inconsistencies and discrepancies. He maintained that the Company has not violated any provision of the Act of 2010 and follows all the harassment protocols. 10.It is pertinent to mention here that the Accused No.3 contested the complaint and his counsel cross examined the Complainant but then he withdrew his wakalatnama. Prosecution notices were therefore issued to him through official communication at the phone numbers provided by his ex-counsel but he did not respond, hence the Accused No.3 has also been proceeded against ex parte. The Accused Nos.2 and 3 have thus not appeared as their own witnesses. 11.Before adverting to the facts on record, a thorough understanding of the term harassment as defined in section 2(h)(i) of the Act of 2010 is required. The same is reproduced hereunder for ready reference: “harassment means:- (a) any unwelcome sexual advance, request for sexual favours, stalking or cyber stalking or other verbal, visual or written communication or physical conduct of a sexual nature or sexually demeaning attitudes, including any gestures or expression conveying derogatory connotation causing interference with work performance or creating an intimidating, hostile or offensive work environment, or the attempt to punish the complainant for refusal to comply to such a request or is made a condition for employment.”
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		they had asked for as nobody from the Company would proceed against them. 15. Additionally, on the next day of harassment incident, the Accused No.5 called her to a separate room and advised her to meet the demands of the Accused Nos.1 and 3 and threatened that if she declined them, a false case will be registered against her and she will be sent to jail and that nobody would marry her. She refused upon which she slapped her. She stayed silent for two months, bearing their misbehavior and abusive conduct but then in July 2024 she gathered courage and made a verbal complaint to the Accused No.6 but he behaved rudely with her. On her insistence he connected her to the Accused No.4 through phone call but she also refused to help her. 16. In cross examination, the Complainant has stated that she talked about the harassment incident only to her sister in the family. Further, prior to this incident the Accused No.3 had misbehaved with her twice regarding which she complained to Abdullah Manager. Irum Mukhtar PW2 who is real sister of the Complainant has deposed in her affidavit Ex.P6 that in April 2024, the Complainant reached home late and told her that the Accused No.1 had talked to her in an inappropriate manner and had subjected her to sexual harassment. She got upset and called the Accused No.4, requesting her not to mistreat the Complainant but she did not get any positive response. She then called Accused No.1 who also gave a negative response and while extending threats, he alongwith the Accused No.4 told her not to raise voice against them and to ask the Complainant to sign the termination letter. In cross examination she stated that the Complainant never informed her about any such harassment matter earlier and that she requested the HR not to terminate the Complainant. Answering a question posed to PW2, the witness replied that the Complainant discussed all her matters with her. She stated that prior to
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		the alleged harassment incident, she never informed her of any such incident. 17. The Complainant has stated that preceding the alleged incident, the Accused No.3 had misbehaved with her twice regarding which she had complained to the Manager, Abdullah. Considering his testimony essential, he was therefore summoned as a court witness. He stated that he worked in the Company from 10.06.2017 till 30.01.2024 and that the Complainant and Accused Nos.1 to 3 were known to him as they worked there. He added that the Complainant never complained against anyone, however, she brought a complaint to him during the ending period of his tenure but could not recall what the occurrence was. As regards the Accused No.1 he stated that he did not know much about him and could not recall about any harassment complaint filed against him. In cross examination by the Complainant, he replied that no harassment incident took place during his tenure. 18. Accused No.1 has denied the allegations against him, deposing in his affidavit Ex.D5 that the instant complaint is false and has been filed by the Complainant due to a grudge of her service termination. He has deposed that he and Samia alongwith others were members of the inquiry committee which was constituted in a theft case and they interrogated the matter from the Complainant and other employees. In cross examination, he has denied that in April 2024 he pulled the mask from the face of Complainant and also commented on her body and dressing. However, he stated that commenting on the clothing and physical appearance is harassment. 19. Accused No.4 Syeda Fatima Adnan as DW1 has deposed in her affidavit Ex.D1 that on 05.07.2024 the Complainant came to her office but as she was not
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		available there, the Accused No.6 connected her through his cell phone. The Complainant asked her as to why the Accused Nos.1, 3 and 5 had interrogated her about theft of raw material and why she had been accused of theft. She then asked her as to why her services had been terminated; she tried to convince her but she banged the phone and while leaving the office threatened that she would file a case against employees of the Company. She added that no harassment incident within the organization has been brought to her notice nor any complaint in this regard has been filed before the Anti-Harassment Committee. In her cross examination she stated that the Complainant never complained to her against the Accused No.1 or others including Accused No.4, however, was unsure if she talked about the Accused No.3. 20. The Accused No.5 Samia Zaheer as DW2 has deposed in her affidavit Ex.D2 that in April 2024 when theft of raw material revealed, the Company constituted an inquiry committee comprising herself alongwith the Accused Nos.1 and 3 but the matter was resolved against the Complainant. She maintained that she had never caused any harassment to her. The Accused No.6 Usama Mahmood as DW3 has deposed in his affidavit Ex.D4 that as HR Manager he contacted the Complainant after receiving her Closure of Service letter and when she came to his office on 05.07.2024, she insisted on talking to Accused No.4 on the phone and after talking to her, she left the office extending threats of involving employees of the Company in a case. 21. The Complainant claims that the harassment incident took place in April 2024 and has deposed that she remained silent for two months as the Accused Nos.1 and 5 had extended threats to her. However, there is no evidence to reveal that during this intervening period of two months, the harassment continued against her which compelled
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		her to report the matter to the Accused Nos.4 and 6. Although PW2 was informed about the alleged incident the same day and she has stated that she called both the Accused Nos.1 and 4 to complain about it, what stopped her from agitating against the alleged harassment and why did they ask her to tell the Complainant to sign the termination letter dated 03.07.2024. There is no convincing evidence regarding these queries. Further, she talked to Accused No.4 only once and requested the HR not to terminate the Complainant. This further reveals that PW2 contacted the Accused Nos.4 and 6 only after the termination letter was issued to Complainant and not when she was allegedly harassed. She has also stated that when the Complainant was stopped in the office till late hours, no application was moved by them before any forum. Most of the allegations against the Accused have not been subjected to the test of veracity. Testimony of PW2 and CW1 as regards the alleged harassment also lacks corroboration. On the contrary, the Accused have remained consistent in their stance. Their evidence is corroborative and inspires confidence. 22. As regards the second formulation of creating a hostile, intimidating and offensive work environment for the Complainant, it is in the evidence of the Complainant that she used to contact her sister from the offices of Pharmacist and Supervisor, who further conveyed her messages to the family. She has stated that she was called for inquiry in a theft matter but nobody levelled any allegation against her. She has further deposed that she worked in the same department for seven years and besides her, five females and three males also served there. 23. It is revealed that the Complainant and other employees were kept behind after office hours for interrogation in the theft issue. Since it was an administrative matter, she could not be exempted from the interrogation nor retaining
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		an employee for this purpose can be considered a detention. It is well established in the jurisprudence of the Superior Courts that this Forum cannot adjudicate upon administrative/disciplinary matters as these do not constitute harassment [refer Muhammad Rizwan Dalia Vs. Ombudsman (PLD 2022 Sindh 213) at para 13]. Reliance is also placed on the judgment of the Supreme Court rendered in Nadia Naz Vs. President of Islamic Republic of Pakistan (PLD 2021 SC 784) (2021 judgment). The Supreme Court in that case observed: <i>“23. ...It may be observed that [under] the scheme of the Act, the Federal Ombudsman has no jurisdiction to enquire into and give findings as regard to the disciplinary proceeding against an employee of the Organization, <u>as disciplinary matter fell beyond the realm of the authority and jurisdiction of Federal Ombudsman under the Act, of 2010...</u>”</i> <i>(emphasis supplied)</i> Although the above judgment was set aside by the Supreme Court in Nadia Naz Vs. President of Islamic Republic of Pakistan (PLD 2023 SC 588) (2023 judgment), that was only to the extent that the meaning and scope assigned to the term ‘harassment’ by the 2021 judgment was restrictive in nature. However, the finding that this Forum cannot intervene in administrative/disciplinary matters was not disturbed by the Supreme Court in its 2023 judgment.
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		24. PW2 has stated that the Complainant always informed her when she was late from office. She has admitted that Complainant has been working in the Company of her own choice and has also stated that behavior of her colleagues till the alleged incident was satisfactory. 25. DW1 has stated that there is a CCTV camera to monitor the female employees and there is also a pick and drop service for them. She has stated that they had an Anti-Harassment Committee and there also existed a protocol of anti-harassment measures but Code of Conduct was not displayed in the offices. DW2 has stated that she had received anti-harassment training, however, the Code of Conduct was not displayed in the offices. DW3 was unsure about its display. 26. The Complainant worked in the Company for a period of seven years of her own choice and had no complaint against the Accused or any other employee prior to the alleged incident. She worked in a conducive environment where she was free to contact her family members and behavior of her colleagues was also satisfactory towards her. Females in majority worked in the same department, which reveals that the work environment was supportive, safe and inclusive. There is also no evidence to suggest that when the Complainant allegedly complained about the harassment, the Accused Nos.4 to 6 became hostile towards her. Conducting interrogation in an administrative matter after office hours can also not be termed as creating a hostile, intimidating or offensive work environment for the Complainant. 27. This Forum is mindful of the fact that in matters of workplace harassment, direct evidence is often rare. However, in the instant case, testimony of the Complainant and her witness lacks the requisite clarity,
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		consistency and detail. Although the Accused No.2 has not filed his defense reply and the Accused No.3 has not adduced his evidence and both have been proceeded against ex parte, the Complainant has been unable to convince this Forum that she was sexually harassed by the Accused Nos.1 and 3 and that the Accused Nos.2, 4 to 6 facilitated them in this regard. She has also not convinced this Forum that the Accused Nos.4 to 6 created a hostile, intimidating and offensive work environment for her. 28. Consequently, taking into account the foregoing discussion, the complaint is dismissed for failing to satisfy the legal requirements laid down in Section 2(h)(i) of the Act of 2010. 29. Before parting with the order, it is pertinent to point out that Closure of Service letter Ex.P5 has revealed that services of Complainant were terminated on 03.07.2025 with immediate effect. In the written defense the Accused have maintained that the Company is willing to pay the outstanding dues of the Complainant. DW1 has also stated that they are ready to clear her dues and the cheque in this regard is also ready. The Company is thus required to pay all the outstanding dues of the Complainant as per procedure. 30. It is also revealed from the evidence that the Code of Conduct as envisaged in the Schedule to the Act of 2010 is not displayed in the Company. The management is therefore directed to display copies of the Code in English and Urdu at conspicuous places in the organization and the workplace and submit compliance report to this Forum within 15 days from the date of this order.
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		31. Additionally, this Forum deems it necessary to advise the Genetics Health Care to take concrete steps toward fostering a safer and more inclusive work environment free of harassment and intimidation. It is also recommended that gender-sensitization training for all employees be carried out. Such proactive measures will serve to deter future incidents and ensure that all employees feel safe and respected in their workplace. FEDERAL OMBUDSPERSON
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