

OFFICE OF THE FEDERAL OMBUDSPERSON

FOR PROTECTION AGAINST HARASSMENT OF WOMEN

AT THE WORKPLACE, REGIONAL OFFICE, KARACHI

FORM OF ORDER SHEET

Appeal No: 484/2025

Date of Institution: 04.09.2024

Serial No. of Order of Proceedings	Date of order of Proceedings	Order of other proceedings with Signature of Federal Ombudsperson			
		TITLE	MR. ARSHAD MEHMOOD	VS	MS. ZOYA KHAN & OTHERS
		DEPARTMENT: MARINE FISHERIES DEPARTMENT			
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05	12.03.2025	<u>Subject: Final Order on Merits</u> 1. Mr. Arshad Mehmood, serving as a Naib Qasid (BS-05) at the Marine Fisheries Department, Karachi, has filed an appeal before this Forum on 13.01.2025, challenging the decision rendered in a subsequent inquiry. Following the submission of the response/comments to the appeal by Respondents No. 1-4 (Marine Fisheries Department), the hearing of the final arguments was fixed on 21.02.2025. 2. The inquiry was conducted pursuant to the order passed by this Forum in Appeal No. 455/2024 dated 29.11.2024, which set aside the previous proceedings due to procedural deficiencies, specifically the denial of the Appellant's right to cross-examine witnesses in violation of Section 4(1)(c) of the Protection Against Harassment of Women at the Workplace Act, 2010, and Article 10-A of the Constitution of Pakistan, 1973. Consequently, a new inquiry was directed.			

		3. Following this order, the Appellant was reinstated to service effective from 21.10.2024 and transferred to the Fisheries Training Centre, Karachi, for the duration of the proceedings. The subsequent inquiry concluded with an altered penalty—changing compulsory retirement to removal from service—which was formalized through an order dated 13.02.2025, issued by the Respondent No. 2, Mr. Abdul Jabbar Mirani (Chairman of the Inquiry Committee), Deputy Director, Marine Fisheries Department. 4. The original complaint leading to these proceedings was filed on 01.04.2024 by Ms. Zoya Khan, a Museum Curator (BS-10) in the same Department, alleging inappropriate workplace conduct by the Appellant on 25.03.2024. She contended that on the said date, at 02:50 PM, the Appellant held her hand and attempted to kiss her. She explained that due to the absence of CCTV cameras in the museum and the incident occurring during Ramadan, when the museum closes early and staff leaves around 3 PM, she had no eyewitnesses to support her claim. The next day, she lodged her complaint with the Inquiry Committee. The Appellant was verbally informed of the allegations on 28.03.2024 and submitted his written response on 29.03.2024, denying the allegations and attributing them to a misunderstanding. Additionally, she stated that during the inquiry proceedings, the Appellant, Mr. Arshad Mehmood, visited her residence to apologize for his actions. The initial Inquiry Committee conducted proceedings where the Appellant appeared on 06.05.2024 and reiterated his defense. However, he later raised concerns about procedural lapses, including the non-provision of certified copies of the complaint and inquiry report despite repeated requests made on 08.05.2024 and 12.08.2024. He argued that this hindered his ability to fully comprehend the charges and prepare his defense. 5. Additionally, the Appellant claimed he was denied the right to cross-examine the complainant and witnesses, impairing his ability
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		to challenge the evidence. He contended that the penalty of compulsory retirement was excessive and disproportionate, particularly given his 31-year unblemished service record. 6. In response, the complainant Ms. Zoya Khan had maintained her allegations, stating that the absence of CCTV cameras in the museum and the timing of the incident during Ramadan left her without eyewitnesses. Nevertheless, she insisted the incident had occurred and was immediately reported to the relevant authorities. 7. Given the Appellant's procedural concerns, this Forum directed the Director General of the Marine Fisheries Department and the Inquiry Committee members to present all relevant inquiry records. Upon review, this Forum found the initial inquiry to be procedurally flawed, particularly due to the failure to provide the Appellant with an opportunity for cross-examination, and consequently ordered a new inquiry. 8. The subsequent inquiry, conducted as per this Forum's directives, resulted in a harsher penalty of removal from service, which the Appellant now challenges in the present appeal. Following the final arguments on 21.02.2025, this Forum will deliberate and issue its decision on the merits of the case in this present order. 9. The appellant contends that the inquiry process was fundamentally flawed and procedurally unfair. He alleges that, despite receiving a notice dated 13.11.2024 for an inquiry scheduled on 18.11.2024, he was denied entry to the inquiry room and thus prevented from cross-examining respondents and witnesses. Moreover, upon receiving a re-notification on 19.11.2024 for an appearance on 20.11.2024, he learned that the inquiry had commenced prior to his arrival. He also states that on 15.11.2024, he submitted an application to the Director General of the Marine Fisheries Department expressing his apprehension that the inquiry would be conducted unfairly—particularly as the
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		committee had previously declared him guilty and because two of its members, Mr. Abdul Jabbar Mirani and Ms. Salma Saeed, allegedly harbored personal grudges against him. 10. In addition, the appellant alleges irregularities regarding the evidence and witness conduct. He contends that the number of witnesses present exceeded those originally named in the complainant's complaint and that he was continuously interrupted by other witnesses during cross-examination. It is further alleged that certain witnesses, specifically Mr. Abdul Sattar Lodhi and Mr. Qurban Ali, had personal interests against him due to prior conflicts over their appointments as supervisors. The appellant also points to marked discrepancies between the witness statements in the current inquiry and those provided in previous proceedings, as well as the repeated refusal to furnish him with a certified copy of the inquiry report, all of which form the basis of his appeal. 11. Additionally, the appellant asserts that the order issued pursuant to the conclusion of the inquiry did not bear the signature of the competent authority, the Director General of Marine Fisheries, further rendering the proceedings legally questionable. 12. The respondents contend that neither Mr. Lodhi nor the appellant was promoted by the department. If the appellant has any grievances regarding seniority or promotion, the appropriate forum to address such concerns is the Federal Service Tribunal (FST), not this inquiry. The respondents argue that the inquiry was conducted in a fair and transparent manner. A spacious room was arranged where all witnesses were present and provided statements regarding the character of the accused. The accused himself was present and given the opportunity to respond. However, instead of providing a substantive defense, he merely claimed that Mr. Abdul Jabbar Mirani, Ms. Salma Saeed, and others held personal grudges against him.
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		13.The respondents further highlight that both Mr. Abdul Jabbar Mirani and Ms. Salma Saeed are senior Grade-18 officers, whereas the appellant is a Naib Qasid. It is unreasonable to suggest that these officers would have any personal stake in his position or career progression, thereby eliminating any doubt that their actions were driven by animosity or bias against a lower-grade employee. 14.Furthermore, on the morning of the scheduled inquiry, the appellant was present at the office. However, when the proceedings began, he had already left. It was later discovered that he had gone to the Federal Trade Commission (FTC). While all other parties were present, the appellant failed to attend, which was also acknowledged by him. 15.Since the appellant failed to appear at the first inquiry hearing, he was issued a second notice to attend the proceedings on 20.11.2024. On that date, all relevant individuals attended the hearing. However, once again, the appellant failed to provide any substantial defense and instead repeated his previous claims that various individuals had personal grudges against him. 16.The Appellant has highlighted the inconsistencies in the statements given by the witness Mr. Abdul Salam. During the first inquiry, when questioned about the incident involving the complainant, he stated that he had not heard anything specific regarding Mr. Arshad Mehmood. However, in the second inquiry, he provided a more detailed account, stating that such incidents did occur and that the accused had engaged in such behavior. The respondents argue that as the inquiry progressed, more information surfaced, and multiple witnesses corroborated the allegations levelled against the Appellant. 17.The respondents maintain that the date for the third hearing was announced during the previous hearing itself, and therefore, there was no necessity to issue a separate notice in this
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		regard. The appellant was already informed and expected to be present at the hearing. 18. The respondents dismiss the appellant's claim about inconsistencies in timing, stating that minor differences in recorded times—such as a five-minute variation in watches—are not significant enough to undermine the integrity of the proceedings. The Appellant, however, contends that a 15-minute discrepancy between the witness and complainant statements does impact the credibility of the inquiry, arguing that while such a discrepancy might be understandable for the complainant, who may have been distressed, the same cannot be said for the witnesses, who were not in any apparent distress or trauma that could have affected their perception of time. 19. The Respondent No. 4, Ms. Syeda Kashifa Zohra stated during the final hearing that the accused was preoccupied with the idea of entering into another marriage and had expressed his intention to do so on multiple occasions. This, they argue, adds to the overall character assessment of the appellant. 20. The Respondents assert that multiple witnesses consistently testified during the inquiry that the accused was responsible for the actions in question. The appellant, however, claims he was not allowed to cross-examine the witnesses. The Inquiry Committee refuted this, stating that no such restriction was imposed and that the proceedings were recorded. While the Committee offered to provide these recordings to the Ombudsperson's office for verification, they requested that the accused not be given access to them. 21. The Forum directed the Inquiry Committee to submit the recordings for verification, along with any previous complaints against the appellant and documentary proof confirming that the Director General, as the Competent Authority, had approved the impugned order issued under the signature of Mr. Abdul Jabbar Mirani. In compliance, the Department submitted the
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		required information and video via its letter dated 27.02.2025. 22. The Chairman of the Inquiry Committee admitted that he had interrupted the accused at one point during cross-examination when the accused questioned why the complainant frequently accompanied Mr. Altaf Mari on his bike. The Chairman explained that this line of questioning was irrelevant to the inquiry, prompting his intervention. 23. The principal question that calls for determination in the instant matter is: Whether the inquiry conducted by the Anti-Harassment Committee complied with the due process requirements under Sections 3 and 4 of the 2010 Act and whether the Appellant was afforded a fair trial. 24. The key issue for determination is whether the respondents adhered to procedural formalities in conducting the inquiry. The Counsel for the Accused has invoked relevant provisions of the <i>Protection against Harassment of Women at the Workplace (Filing and Disposal of Complaints) Rules, 2013</i>, contending that the inquiry committee failed to follow due process. 25. The Appellant has raised serious concerns regarding the impartiality of the inquiry report and the decision of the Anti-Harassment Committee. He asserts that he was not given the opportunity to appear before the Committee or to cross-examine the Complainant and witnesses. He argues that this omission violated his fundamental right to a fair trial under Article 10-A of the Constitution and Section 3 of the <i>Protection against Harassment of Women at the Workplace Act, 2010</i>, alleging that the Committee exhibited bias in favor of Respondent No. 4.
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		26. However, this Forum finds the argument of the Appellant misplaced and misconceived, as the opportunity to cross-examine the witnesses was duly provided to him by the Inquiry Committee. This fact has been verified through the recordings of the inquiry proceedings, which were submitted by the Department vide letter dated 27.02.2025. The record clearly shows that when the Appellant was asked by the Chairman of the Inquiry Committee to cross-examine the witnesses, he evaded the opportunity by responding, "Me kya poochun, aap poochenge na sir, member to aap bane huwe hain na sir. Aap poochenge na sir, main to nahi pooch sakta na." When prompted again to proceed with cross-examination, he again deflected, stating, "Aap poochenge na, aap sawal karen." Given this back-and-forth, the Chairman of the Inquiry Committee clarified that the witnesses had already submitted their statements and that, since the Appellant had previously raised a grievance regarding being denied the opportunity to cross-examine, he was now being given that right and should ask his questions. Surprisingly, the Appellant responded, "Mujhe to... inse kisi se bhi koi aitraaz nahi," thereby contradicting his initial claim and waiving his right of cross-examination. 27. Furthermore, the recording also shows that when one of the witnesses reiterated how the Appellant used to speak about female colleagues—"Ye larki aisi hai... ye aisi hai... iske sath mujhe shadi karni hai... iske sath mujhe ye karna hai..."—instead of cross-examining the witness, the Appellant attempted to normalize such statements by responding, "Aise to aap bhi mujhe kehte the ke mereko wo pasand hai, main us se shadi kar raha hoon... uske ghar par maine rishta bheja hai." He further justified his remarks by saying, "Ye to yaari dosti ki baat hai na..."—implying that he saw nothing inappropriate in his statements. When the Chairman of the Inquiry Committee pointed out that this amounted to an admission of the witness's statement, the Appellant quickly attempted to distance himself by shifting his stance, denying that he had ever made such remarks. His inconsistent responses, wavering between statements reflect an evasive and unreliable demeanor. Moreover, during the final hearing before this Forum, Respondent No. 4, Ms. Syeda Kashifa Zohra (Member of the Inquiry Committee), also confirmed that the Appellant appeared preoccupied with
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		the idea of entering into another marriage, further corroborating the observations made during the inquiry proceedings. 28. Another striking instance of the Appellant's tendency to shift his statements within moments is captured in the video recording of the inquiry proceedings. When a member of the Inquiry Committee asked him to recount what happened on the day of the incident, he began by stating: "25 March ko duty par aaye... maine apna ____ [inaudible] waghera kiya... uske baad humne chai pi... chai peene ke baad..." Upon this, the Inquiry Committee member inquired who was with him during the tea break, to which he responded, "Mere sath aur bhi colleagues the." However, when it was pointed out that he himself had previously admitted that he was fasting that day—as it was Ramadan—his demeanor immediately changed, and he hastily corrected himself, saying, "Haan, us din to roza tha na." When confronted with this glaring inconsistency, rather than addressing the contradiction, he deflected by accusing the Inquiry Committee of leading him into the response, stating, "Ye to aap brief kar rahe the mere ko chai pe" implying that he had never mentioned tea in the first place and that the line of questioning was artificially imposed upon him. However, the recording clearly shows that he himself brought up the tea break before being asked any follow-up questions, exposing the contradiction in real-time. This pattern of deflection and attempt to manipulate the narrative was not isolated to this instance alone. Each time he was confronted with inconsistencies in his statements, rather than offering a coherent explanation, he repeatedly resorted to accusing the Inquiry Committee or witnesses of briefing him or leading him into contradictory statements. 29. Regarding the Appellant's assertion that no notice was given to him for the third date of hearing, the Respondents maintain that the date for the third hearing was announced during the proceedings on 20.11.2024 itself, and therefore, there was no necessity to issue a separate notice. This has also been verified from the video recording of the proceedings conducted by the Inquiry Committee. It shows that the Appellant was duly informed of the next hearing date and was expected to
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		be present, thereby negating his claim of procedural unfairness. 30. The Superior Courts have also held that the principles of natural justice are adaptable and must be tailored to the circumstances of each case. Where an individual has been given a fair chance, which satisfies the requirements of the elementary and essential principles of fairness, then they cannot justifiably raise a grievance relating to violation of the principles of natural justice. Therefore, the assertion that the Appellant was denied his right to cross-examine witnesses stands unsubstantiated. 31. The Appellant has argued that there is a contradiction in the statements of the witnesses, highlighting that certain male witnesses did not mention the harassment allegations in the initial inquiry proceedings but later provided statements detailing the Appellant's behavior in the subsequent inquiry. In response to this contention, it is pertinent to refer to the judgment in Uzma Naveed Chaudhry v. Federation of Pakistan (PLD 2022 SC 783), which acknowledged that it is often a significant stigma for women to come forward with complaints of harassment, leading many to either remain silent or delay their disclosures out of fear of retaliation, social backlash, or damage to their professional reputation. 32. However, this principle is not limited to women alone. In fact, societal expectations and traditional gender roles impose an even greater stigma on men when they attempt to report harassment, as they are often discouraged from expressing vulnerability or speaking out against harassment. The reluctance of male witnesses to initially disclose incidents in the first inquiry and their subsequent willingness to provide statements in the later proceedings can be understood in this context—wherein the fear of ridicule or the perception of weakness may have initially deterred them from openly addressing the issue. It is, therefore, not uncommon for individuals, particularly men, to revise or elaborate on their statements once they recognize that their testimony is being taken seriously and that institutional mechanisms exist to ensure their protection. The subsequent corroboration by the witnesses does not, in itself, indicate fabrication or contradiction but
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		rather reflects the complexities associated with supporting harassment claims in an environment where such matters are often trivialized or dismissed. 33. As for the Appellant's contention that the Impugned Order lacks the signature of the Director General (DG) of Marine Fisheries Department and was issued without the approval of the Competent Authority, i.e., the DG, the Department has submitted a letter dated 27.02.2025, enclosing a copy of the recommendations forwarded to the Competent Authority. The final page of the document clearly reflects that the DG has duly accorded approval to the Inquiry Committee's recommendations, with additional comments directing the issuance of the order and submission of a copy before this Forum. Therefore, it stands beyond doubt that the impugned order was issued with the express approval and endorsement of the Competent Authority. 34. It is now a well-established principle of law that technicalities in dispensation of justice should be avoided and, as far practicable, cases should be decided on merits. It is important that we must reiterate the principle, laid down in Imtiaz Ahmed v. Ghulam Ali (PLD 1963 SC 382), that 'the proper place of procedure in any system of administration of justice is to help and not to thwart the grant to the people of their rights'. Furthermore, in Mst. Sardar Begum v. Muhammad Anwar Shah (1993 SCMR 363), it has been held that procedural laws exist to uphold justice, not impede it. Similarly, in Malik Asad Ali and others v. Federation of Pakistan (PLD 1998 SC 161), it was affirmed that rules of procedure are subservient to the cause of justice and they cannot be interpreted in a manner so as to whittle down the proceedings or to frustrate the ends of justice. 35. Courts prioritize adjudication based on merits over procedural technicalities. Procedural rules aim to facilitate Court proceedings, not hinder litigants' rights. They serve justice and should not lead to miscarriages of justice. 36. In the present case, the record establishes that the inquiry proceedings substantially complied with the due process requirements as provided under Sections 3
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	and 4 of the 2010 Act. The Appellant was provided an opportunity to present his defense and cross-examine witnesses, and the procedural safeguards necessary for a fair trial were observed. Therefore, the objections raised by the Appellant regarding procedural lapses do not warrant the setting aside of the inquiry's findings, as no miscarriage of justice has been demonstrated. 37. This Forum deems it necessary to also address whether the quantum of punishment awarded to the Appellant is justified in the given circumstances. The gravity of the allegations against the Appellant cannot be overlooked. Multiple witnesses have testified to his character. The allegations in question relate to sexual harassment of a physical nature—a serious offense that not only violates workplace ethics but also discourages women from participating in professional spaces. It is a trite proposition of law that the determination of the quantum of punishment falls within the domain of the trial court, which in this case was the Inquiry Committee tasked with investigating the matter. The Legislature has conferred discretion upon the trial forum to impose a penalty that is commensurate with the nature and circumstances of the case. Intervention by an appellate forum to review and, where warranted, modify the penalty imposed by the inquiry forum is justified in instances where the punishment appears to be disproportionate to the harassment established on record, and where mitigating circumstances exist, or where substantive procedural irregularities have affected the fairness of the decision-making process. In this case, however, no such mitigating factors have been presented that would warrant interference with the penalty imposed by the Inquiry Committee. 38. The record revealed that this is not an isolated instance of misconduct on the part of the Appellant. The Department, vide letter dated 27.02.2025, has submitted records of previous Efficiency & Discipline (E&D) proceedings against him, wherein he was previously dismissed from service for submitting fabricated and non-genuine documents to secure leave. Though he was later reinstated by the concerned Federal Minister, his disciplinary history demonstrates a pattern of misconduct. These past infractions, coupled with the gravity of the present case, make it evident that the Appellant's actions were not an aberration but rather
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		indicative of habitual disregard for professional ethics and workplace decorum. 39. This Forum remains conscious of the systemic barriers that discourage women from seeking professional independence. It is well recognized that workplace harassment remains one of the primary reasons women hesitate to join or continue in employment. Individuals like the Appellant contribute to a culture where women feel unsafe and unprotected at their workplaces. It is precisely for this reason that laws against workplace harassment exist—to ensure that no individual, regardless of gender, is deterred from pursuing their career due to fear of intimidation or exploitation. 40. In light of the above, the Inquiry Committee’s decision to impose a major penalty is well-founded. It is within the discretion of the inquiry committee to decide whether a delinquent employee deserves the most severe penalty of dismissal from service or a lesser major penalty such as compulsory retirement. Given the established harassment, its nature, and the Appellant’s prior disciplinary record, this Forum finds no justification to interfere with the punishment imposed. The penalty of dismissal from service is, therefore, appropriate in this case. This Forum is of a view that the Appellant has failed to point out any infirmity, perversity and illegality in the inquiry conducted by the Harassment Committee as well as in the decision of the Competent Authority. Therefore, the recommendations of the Inquiry Committee and the impugned order are upheld and the instant appeal is rejected accordingly. 41. Additionally, this Forum deems it necessary to advise the Department to take concrete steps toward fostering a safer and more inclusive work environment. It is recommended that the Marine Fisheries Department implement preventive measures such as the installation of CCTV cameras in common areas and mandatory gender-sensitization training for all employees. Such proactive measures will serve to deter future incidents and ensure that all employees—irrespective of gender—feel safe and respected in their workplace.
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		42. Let a copy of this order be communicated to the Director General, Marine Fisheries Department, for information and compliance. FEDERAL OMBUDSPERSON
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