



FEDERAL OMBUDSMAN
For Protection against Harassment of Women at Workplace
Islamabad

J U D G M E N T

1. Appeal Number: 1(279) / 2016-FOS (Reg)
2. Date of Institution: 22-06-2016
3. Date of Decision: 04-11-2016
4. Appellant
Mst. Ayesha Iqbal
Doctor of Pharmacy
House No. 748/48
COMSATS University Road,
Abbotabad
5. Respondent
Anzar-ur-Rehman Abbasi
Chief Pharmacist MIT ATH
Abbotabad

Justice (R) Yasmin Abbasey,

Ombudsman:

Complaint No. 1(279)/ 2016-FOS.

1. Mst. Ayesha Iqbal has filed this appeal against Anzar-ur-Rehman and members of the Inquiry Committee of Ayoub Teaching Hospital (ATH).
2. Facts of case as narrated by appellant are that on 02-04-2016 she was appointed as Pharmacist in ATH Abbotabad. On 26-04-2016 she filed a complaint to Hospital Director against misbehavior, threatening attitude of harassment against Chief Pharmacist Anzar Abbasi of the very hospital. Inquiry committee was constituted on 30-04-2016 consisting of two members which is a violation of section 3 sub-section (2) of Protection against Harassment of Women at Workplace Act, 2010. No opportunity was provided to appellant to represent herself through representative whereas respondent was facilitated to bring Mr. Habib Ullah Pharmacist along with him. Appellant was terminated being on probation period and also an employee of CIIT, Abbotabad. Decision of inquiry committee was not communicated to her. Just after dropping inquiry, letter of termination was issued to her.
3. It is stated by appellant that in the very first week of her employment at ATH, respondent inquired from her about her personal life and that why she has eye bags. Is there any gynecological issue with her. Under no circumstances respondent was allowed to transgress his limits and used unprofessional and cheap language. Appellant was very uncomfortable in going to respondent's office. All these ill intention and indecent talk of respondent was communicated by her to Mr. Asif Nawaz- her reporting senior officer and to Mst. Zara Afridi a female colleague. On 26-04-2016 respondent asked from her as to why she has facilitated visit of COMSAT students in the institution which was denied by appellant. She clarified that she did not call them, but were sent by COMSAT itself under MOV with ATH. In spite of that respondent had given her verbal threat that inquiry will be made and she will have to explain the position. Later on when appellant went to office of respondent to clear this misunderstanding of visit of COMSAT students, respondent became extremely rude and misbehave with her. She was not heard. Office boy was told to call security person to through appellant out of his office. Because of insulting attitude of respondent

which has mentally tortured her it has become difficult for appellant to work with professional competency. She was unnecessarily overburdened and was posted in another section without any office order in spite of the fact that there also were other pharmacists. Respondent called appellant in his office and threatened her not to go anywhere regarding her work and only come directly to his office so that he can do extra favor to her. According to appellant she has audio and video recording of all these incidents. Due to multiple instances of improper behavior in past appellant was compelled to record his action to have proof of his act of harassment.

4. Administration of ATH was in known of appellant's previous employment, but no such document was ever called from her till she filed harassment complaint against respondent. Calling of appointment status of appellant at COMSAT was a step to facilitate respondent. Inquiry committee constituted was bias. Instead of examining, allegations leveled by appellant they had focused on irrelevant matters. Observations of inquiry committee are not just and proper, therefore it is requested that after holding proper inquiry her appeal be allowed.
5. Respondents in their defense has raised legal objection as to maintainability of appeal. It is stated that ATH is statutory body under supervisory control of provincial government, therefore jurisdiction lies with Provincial Ombudsman and not before Federal Ombudsman. Appeal is not maintainable and is liable to be dismissed.
6. It is stated by respondents that appellant was appointed vide office order dated 26-03-2016, but she submitted her arrival report on 02-04-2016 deliberately after having leave from COMSAT institute Abbotabad w.e.f 02-04-2016 being still regular employee of COMSAT because before joining ATH she had not resigned from COMSAT. Although in appointment letter issued on 26-03-2016 it has been clearly mentioned that employee shall not have allowed to work outside the institute during course of employment at ATH. Appellant has not approach this forum with clean hand. After having extraordinary leave from COMSAT she has joined this institute of ATH and is drawing salary from both institutions and is also availing time relaxation from ATH on ground of her studies. On 25-04-2016 some students from COMSAT approach to respondent No. 1 to seek permission to visit ATH for project, but same was refused on ground that there is no MOU signed in between these two institutions and even

if there was it has not been extended. In spite of that appellant at her own called COMSAT students on 26-04-2016 in Pulmonology ward of ATH. This visit was reported by Mr. Asif Nawaz Pharmacist Incharge Emergency medical store. Appellant was called to clarify her position. Report was submitted on 30-04-2016.

7. Present appeal is not maintainable and liable to be dismissed. On complaint filed before Hospital Director of ATH thorough inquiry was conducted with an opportunity to parties to plead their case and after decision of inquiry committee and in light of recommendations of inquiry committee appellant was terminated from service on 24-05-2016. Present appeal is not against harassment act of respondent No. 1 but regarding his misbehavior and threatening behavior which does not fall within definition of harassment. Inquiry committee was constituted in accordance to law. Appellant has concealed facts not only from institute of ATH but also from this forum of Federal Ombudsman. All allegations leveled by respondent No.1 are denied. Appeal be dismissed.
8. After going through record it appear that although appellant has filed an application on 26-04-2016 to Director Hospital against respondent alleging some sexual harassment incidents happened with her beside administrative issues. Inquiry was conducted by department and in its final report of 13-05-2016 it was observed by inquiry committee that Mst. Ayesha Iqbal has not been able to prove allegation of sexual nature leveled by her against respondent, but during inquiry it was observed that when both parties were present in office of Hospital Director along with father of Mst. Ayesha Iqbal opponent was not able to maintain office decorum and that he has weak administration grip because of which such ugly allegations are made, whereas for appellant it was observed that she should be imposed strictest possible penalty.
9. Record shows that even during inquiry proceedings appellant has raised reservation on constitution of Inquiry Committee and way of its conduct, but contrary to it I do not find illegally because according to opponent Inquiry Committee so constituted was not under Act 2010 but a committee under administrative rules of ATH. From record it appears that complaint moved by appellant on 26-04-2016 was an act of retaliation to explanation called from her and order of inquiry made by respondent on visit of COMSAT students in ATH on 26-04-2016 because if statement of appellant is taken as correct that just

after joining her to the institution she was facing misbehavior and threatening attitude from respondent, then she has been unable to explain that why she waited for such long time in moving such application. It is correct that under Act of 2010 there is no bar of moving complaint of such nature at any stage but such delay in moving complaint on basis of harassment has to be examined in circumstances of each case that whether there were some particular circumstances which unable complainant to move complaint just after facing an act of harassment or issue of harassment has been cropped up by appellant just to victimized respondent.

10. In present case it appears that main dispute in between parties arose because of administration issues because of transfer of complainant from one section to another section of hospital and thereafter on visit of COMSAT students in ATH. According to respondent those students were called by appellant without informing ATH administration as no correspondence ever took place in between COMSAT administration and ATH, for visit of those students for internship.
11. Office note dated 26-04-2016 moved by Asif Nawaz, Pharmacist, I/C EMS to ATH was first information communicated to respondent about visit of COMSAT students in two buses and as per this office note students of COMSAT informed that their visit was with permission of Mst. Ayesha Iqbal. On this office note inquiry is said to had been conducted, but according to appellant inquiry report on basis of this note has not been communicated to her nor same has been placed before this court. Anyhow during inquiry it was also observed by ATH administration that appellant at a time is in service of two institutions i.e. COMSAT and ATH and is also drawing salary from both institution. This plea taken by respondents too find support from letter issued by Dy. Director of COMSAT institution of Information Technology Abbotabad dated 17-05-2016 certifying that Mst. Ayesha Iqbal, Research Associate, Department of Pharmacy is an employee of COMSAT institute w.e.f 15-07-2016, currently she is on extra ordinary leave w.e.f 02-04-2016. This fact has further been confirmed that in spite of her appointment in ATH on 26-05-2016 appellant has joined institution on 02-04-2016 i.e. when she was relieved from COMSAT institute on extra ordinary leave and not after resigning. Bank statement placed on page 147 and 148 further supports version of respondent that in spite of accepting terms and condition of appointment as Pharmacist in ATH which disallow her to have any employment outside the institution during employment of institution she was

availing financial benefit from both institution i.e. COMSAT and ATH. All these documentary facts have not been denied by appellant.

12. In view of above instead of act of harassment I found it to be more administrative issue. Appellant has not been able to prove the allegation of harassment as defined in the Act 2010. She was terminated from service on 24-05-2016 and it is thereafter after lapse of about one month this appeal has been presented by her which has no merit.
13. Appeal of appellant is hereby dismissed having no merit.
14. Announced in open court.
15. Parties be informed accordingly.

JUSTICE (R) YASMIN ABBASEY
Federal Ombudsman