



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

J U D G M E N T

1. Complaint Number: 1(154) / 2015-FOS (Reg)
 2. Date of Institution: 25.05.2015
 3. Date of Decision: 03.08.2015
 4. Complainant: Mr. Khalid Mehmood
Photographer
Pakistan Science Foundation
Islamabad
 5. Opponent: Haider Zaman Khattak
Secretary
Pakistan Science Foundation
Islamabad
- Muhamad Iqbal Khan
Deputy Director (Establishment)
Pakistan Science Foundation
Islamabad

Justice (R) Yasmin Abbasey,

Ombudsman:

Complaint No. 1(154)/ 2015-FOS.

1. On 25-05-2015 this complaint was filed by Khalid Mehmood, Photographer, Pakistan Science Foundation (PSF) alleging that because of giving statement against Chief Scientific Officer Dr. Hafeez Khan, PSF in a case filed by its employee Mst. Syeda Rehana Batool complainant had been victimized and act of retaliation has started against him. It is stated that on 30-05-2014 an inquiry was constituted against Dr. Khalil Ahmad Ibupoto under the chairmanship of Dr. Ikram, Director General wherein complainant was called to give evidence. Complainant has stated the whole incident happened with Mst. Syeda Rehana Batool, because of giving evidence, complainants leave with full pay which he has taken in October 2013 was converted without pay on 28-03-2014. On 10-07-2014 complainant was got transfer by Haider Zaman Khatak, Secretary, PSF through Member Science Dr. Khalil Ahmad Ibupoto to Quetta. Whereas as per PSF rules 1973 only chairman can transfer any employee. Member Science has no jurisdiction to transfer. TA / DA of complainant was also reduced on the ground that complainant transfer has been made on disciplinary ground therefore transfer grant cannot be made. Complainant's salary and house hiring were also stopped. Complainant placed his grievances before Federal Secretary, PSF as well as to Federal Minister but in spite of their orders Haider Zaman and Muhammad Iqbal became hurdle and no inquiry was conducted. Statements of Dr. Mirza Habeeb and Adnan Ahmed, Head of that inquiry committee of 12-09-2014 are material in this context who had stated before the present inquiry committee of 05-06-2015 that the then PSF administration

wanted to get report of their choice therefore he had not conducted any inquiry. Therefore, complainant approached to Islamabad High Court under writ petition 3967/2014 and got his transfer orders suspended. Fraud case of 18000/- was also initiated against him. Taken undue advantage of their positions Dr. Hafeez Ullah, Chief Scientific Officer and Secretary PSF had destroyed biometric attendance record and also misplaced attendance of section just to show him absence from office.

2. In spite of filing defense both opponents Haider Zaman Khatak, Secretary PSF and Muhammad Iqbal, Deputy Director (Establishment) PSF had offered to settle the matter amicably.
3. On 17-06-2015 both parties had made a statement that house rent stands paid till 30-06-2015. TADA from Islamabad to Quetta and from Quetta to Islamabad has also been paid. Salary cheque of Rs. 177,347/- of 16-06-2015 has also been handed over to complainant.
4. According to complainant he and his family suffered financially and mentally for a long because of the acts of the opponents, therefore retaliation acts of opponent, just because of giving evidence by complainant in case of Mst. Rehana Batool be considered, and for this purpose report of Inquiry Committee constituted under order dated 08-05-2014 be called. On 27-07-2015 complete proceedings of inquiry report have been produced. After going through the inquiry report dated 05-06-2015 it is found that the grievances and the allegations levelled by complainant against both opponents Haider Zaman Khatak and Muhammad Iqbal and the then Chairman of PSF are correct. Complainant was unnecessarily harassed and victimized just to support one another employee of his organization who was victim of harassment at the

hands of Dr. Hafeez, Chief Scientific Officer, PSF.

5. Discussing the issue with relation to transfer of complainant to Quetta and refusal of TA / DA advance / transfer grant, it is observed by inquiry committee that as per PSF administration letter dated 15-07-2014 complainant transfer was made on disciplinary ground therefore he was not entitled to transfer grant but it has rightly been observed by the inquiry committee that in absence of charge sheet, to name his transfer on disciplinary ground does not have any justification. To substantiate this lacuna a statement of allegation was framed on 25-08-2014 which itself show the malafidly act of department. It has further rightly been observed by Inquiry committee that services of a photographer are required at PSF headquarter where top management of PSF operates and there are so many other official activities of PSF that needs media coverage in Islamabad. Placement of a photographer in Quetta was certainly wastage of human and financially resources. It is further observed by inquiry committee in para 10 that complainant was stopped to enter in PSF office premises at Islamabad on 26-08-2014 by security guards of PSF under verbal instructions and was also showed absent from duty in Baluchistan, although he was regularly attending office of PSF Headquarters Islamabad and was waiting for transfer grant. It is also been observed by inquiry committee that complainant was stopped to enter in PSF office premises on the orders of office management and security guards were instructed by management to do so. It is remarked in para 3 under the title of findings of the case that in inspite of forceful restrained by management of PSF not to allow complainant in office of PSF at Islamabad. He was entering there and marking his attendance. To further prove his absence biometric attendance record was not provided to inquiry committee.

All this fully reflects malafidie acts of management of PSF. To save himself it is stated by the opponent Haider Zaman Khatak that he “as a Secretary of PSF had to obey the orders of the competent authority that is Chairman PSF. He did not take any action at his own”. When he was asked about stoppage of salary his reply was that it was done on the directions of competent authority. Almost same statement has been given by second opponent Muhammad Iqbal that he obeyed the orders of the competent authority that is Secretary and Chairman PSF. Here it will not be out of place to mention that in the present case along with the inquiry report a manual attendance register of Science Wing Section has been produced wherein complainant has been shown present. But in the another case of Mst. Syeda Rehana Batool, because of which problems have started to complainant, photocopy of record of biometric attendance of complainant was produced showing him as absent on 12-03-2014 and it is on the basis of that photocopy record of biometric attendance sheet, statement of complainant Muhammad Khalid Mehmood in Mst. Syeda Rehana Batool case was not considered as true, which apparently was a malice act / fraud committed by management of PSF by placing managed copy of biometric attendance before the forum of Federal Ombudsman.

6. Each and every word of inquiry report of 05-06-2015 is highly speaking about malice acts of management of PSF which included both the opponents as well as chairman of PSF at that particular time. Here it will not be out of place to mention that non of finding of Inquiry Committee of 05-06-2015 have been rebutted by opponents.
7. In view of the above I am of the view that whatever has been stated by complainant is true and correct. As complainant was put under unnecessarily

duress and he suffered mental and financial torture because of management, which mainly are opponent and the then Chairman PSF, without any sufficient reason, a fine of Rs. 50,000 each is imposed on both the opponents that is Haider Zaman Khatak and Muhammad Iqbal as well as on the then Chairman of PSF under Section 4, sub section 4(i)(d) of Protection against Harassment of Women at Workplace Act 2010.

8. Before concluding, I would like to make clear a general perception appearing to Law relating to Protection against Harassment of women at workplace Act that it only protects fundamental rights of working women from sexual harassment at workplace, but unfortunately word “women” inserted in title of this Act of 2010 and in preamble are the cause of development of this perception. Proposed amendment in Act of 2010 including above are pending before concerned Ministry. Otherwise in section 2(d) sub-clause (e) “complainant means women or man who has made a complaint to the Ombudsman or to the Inquiry Committee on being aggrieved by an act of harassment”. Term harassment has been defined in sub-clause h of section-2, but unfortunately term harassment has also been taken only to the extent of sexual harassment relating to women. Right to life means to live with dignity, as defined in Article 9 and Article 14 of Constitution of Pakistan and it is with this object Act of IV of 2010 was enacted with intend to provide a healthy and protected environment to persons working at workplace, so that they should not be harassed, ridicule by employers as defined in section-2(g) of Act of IV of 2010. Thus term “harassment” defined in the Act cannot be examined in isolation, but other aspects of creating an intimidating, hostile or offensive work environment also needs to be examined. The elements which poisoned workplace by creating hostile or offensive work

environment even unrelated to sexual desire are not tolerable. If an employer is engaged in a pattern of harassment which create hostile work environment for employee / complainant, then that case falls under the definition of "Harassment" because term used in sub-clause h of section-2 as "causing interference with work performance" or "creating an intimidating, hostile or offensive work environment" have to be read separately and not in conjunction to each other as a creation of hostile work environment by employer has a significant determining impact on protected term of employment.

9. It is golden rule of law of interpretation that in case having more than one meaning of "Word" a judge can choose a preferred meaning to provide justice to parties.
10. In view of above complaint is hereby disposed off accordingly as stated above. Parties as well as management of PSF be informed accordingly. Management of PSF be directed to implement this order and intimate this office of FOS within a period of 15 days on receipt of this order.

JUSTICE (R) YASMIN ABBASEY
Federal Ombudsman