

OFFICE OF THE FEDERAL OMBUDSPERSON

FOR PROTECTION AGAINST HARASSMENT OF WOMEN

AT THE WORKPLACE, REGIONAL OFFICE LAHORE

ORDER SHEET

COMPLAINT NO: FOH-LHR/0000009/2024

Date of Institution: 12-02-2024

Serial No. of Order of Proceedings	Date of order of Proceedings	Order of other proceedings with Signature of Federal Ombudsperson			
		TITLE:	RUKHSAR TIWANA	VS	MUHAMMAD ASIF SIDDIQUE ETC.
		DEPARTMENT: BANK OF PUNJAB			
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58	09.07.2025	<u>Subject: Final Order</u> 1. This order shall dispose of a complaint filed by Rukhsar Tiwana (Complainant) against Muhammad Asif Siddiqui, Unit Manager Consumer Finance Centre, Faisalabad (Accused No.1) and Rija, HR Coordinator and Recovery Officer (Accused No.2), all employees of the Bank of Punjab (Bank), under Section 8 of the Protection Against Harassment of Women at the Workplace Act, 2010 (Act of 2010). 2. The Complainant, who served in the Bank as an Officer Grade II in Consumer Finance Center of the Railway Road Branch, Faisalabad, asserts that for preparation of the Central Superior Services (C.S.S.) examination which was to be held in February 2023, she applied for a study leave in accordance with the Bank policy, however, her request was unjustly denied by the Accused No.1 who imposed unlawful and inappropriate conditions for its approval. She claims that he subjected her to ongoing harassment at the workplace ever since he got transferred to that office. His			

		conduct reportedly included continuous threats, coercion to resign or accept a forced transfer and attempts to initiate an illegitimate relationship. She asserts that he frequently stared at her in an uncomfortable manner, insisted on sitting close to her, attempted to make physical contact and made unwelcome and inappropriate advances. She claims that she complained against him to the higher management but to no avail. She has ascribed the role of a facilitator to the Accused No.2 by alleging that the Accused No.1 conveyed his inappropriate demands through her. 3. Additionally, the Accused No.1 transferred her four times in a single year and declined her leaves which she claims were attempts to pressurize her into submitting to his illegal demands. She asserts that on 20.10.2022 when she requested him for a fifteen day leave, not only was it declined, but the refusal was allegedly followed by escalating harassment, therefore, she complained the matter to the police. She claims that during police interrogation she was granted only a three-day leave instead of the fifteen days she had requested for. She has further alleged that on 21.10.2022 she was informed that her leave was not allowed so she immediately rushed to the Bank but to her astonishment she found that the register had been tampered and she had been marked absent. 4. In the end, the Complainant has prayed that the Accused be proceeded against strictly in accordance with law for causing sexual harassment to her and damaging her dignity by defaming her at the workplace.
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		5. The Accused No.1 has maintained in his written reply that he assumed the post of Unit Manager in March 2019 and since then the Complainant remained under his supervision. He asserts that he allowed her leaves in the years 2019 and 2020 for exam preparation, in addition to seventy-one days leave up to September 2022. However, when she requested an extended leave from September 15, 2022 to February 15, 2023, her application was rejected by higher management. The Complainant requested eleven days leave via email, which he declined verbally, citing the end-of-month workload. In response, the Complainant shouted at him and called the police on 20.10.2022 reporting to them that he had harassed her. However, he asserts that she was unable to substantiate her claim during the police inquiry. 6. Furthermore, the Complainant was frequently transferred due to consistent poor performance at work and on account of her continuous absence from duty since 16.11.2022. Therefore, he reported her absence to the higher management. He asserts that the Complainant also filed a harassment complaint before the departmental inquiry committee. An inquiry was held by the committee which found no concrete evidence supporting the allegations of Complainant. Instead, it concluded that she had breached the leave entitlement policy, violated the code of conduct and remained absent without authorization. It is maintained that after fulfilling all the procedural requirements, she was dismissed from service on 06.09.2023. He asserts that
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		since she did not challenge the findings of inquiry committee, a new complaint on the same facts cannot be filed, hence the instant complaint was liable to be dismissed being not maintainable. He further asserts that the complaint has been filed due to grudge of her termination. 7. The Accused No.2 has also controverted the allegations on the same lines as that of the Accused No.1 maintaining further that no allegation of sexual harassment was mentioned against her in the complaint filed before the departmental harassment committee and that she has been implicated by the Complainant due to grudge of her termination. 8. Thereafter, evidence of the parties was recorded. The Complainant appeared as PW1 and deposed through affidavit tendered as Ex.P1. She has produced an email dated 25.10.2022 addressed to the authority concerned, regarding her leave request as Ex.P2 and an email dated 20.10.2022 as Ex.P3, addressed by her to the Accused No.1 for an eleven day leave. 9. Both the Accused while appearing as DW1 and DW2 have deposed respectively through their affidavits Ex.D3 and Ex.D7. Findings and recommendations of the Inquiry Committee dated 28.11.2022 Ex.D1 and dismissal from employment letter dated 06.09.2023 Ex.D2 were confronted to the Complainant in her cross examination. DW1 submitted attested copies of the Daily Attendance Register as Ex.D4, the Leave Entitlement Policy as Ex.D5
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		and a USB device, comprising zoom video recording of the inquiry held by Inquiry Committee with Complainant, as Ex.D6. 10.Finally, arguments were advanced by learned counsel of both parties. Counsel for the Complainant has argued that evidence of the Complainant duly proved that the Accused No.1 had caused sexual harassment to the Complainant and the Accused No.2 had facilitated him in this regard. He has maintained that the Accused No.1 retaliated against her, when she refused to comply with his request for sexual favours, by declining her leaves without any justification and transferring her several times. He has further maintained that in furtherance of retaliation, the Complainant was malafidely marked absent by the Accused No.2 on 21.10.2022 at the instance of the Accused No.1. He has emphasized that the Complainant was discriminated on the basis of her gender by assigning duties which did not match her qualification and job description. He has argued that the departmental inquiry was not conducted in accordance with law as right of cross examination was not given to the Complainant and that the zoom meeting device tendered in evidence was edited and did not reveal the entire proceedings. He pointed out that due to hostile environment on account of power dynamics created by the Accused No.1 involving fear and loss of dignity, almost seven employees including females had resigned from their jobs and that such environment was disapproved by the Apex Courts. In support of his
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		arguments he has relied on the case law reported as Muhammad Din Vs Province of Punjab (PLD 2025 Supreme Court 354). 11.Learned counsel for the Accused No.1 at the outset has argued on maintainability of the complaint. He has emphasized that as the Complainant has admitted in her evidence that her earlier complaint was based on the same allegations, therefore, the instant complaint on the same cause is not maintainable and as the departmental Inquiry Committee constituted under the Act of 2010 had exonerated the Accused No.1. Therefore, decision on the complaint would tantamount to double jeopardy under the law. On merits he maintains that allegations against him are false and a story has been concocted against him due to grudge of her unapproved leaves. He has relied on the daily attendance register and bank policy to reveal that the Complainant had availed numerous leaves, hence her leaves were not allowed and that the Accused No.1 was not the sanctioning authority as regards study leave applied by her. He has emphasized that the alleged harassment was never caused to the Complainant neither she has corroborated her version through corroborative oral or documentary evidence. Additionally, his version is that the Complainant did not accuse him of sexual harassment in her earlier complaint and that improvements were made by her in the instant complaint by concocting a story against him.
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		12. Learned counsel for the Accused No. 2 has also argued on the same grounds. To the extent of Accused No.2 he has maintained that there is no cogent and confidence inspiring evidence against her nor was she accused in the complaint filed before the department. 13. Before adverting to the facts on record, it is imperative to examine the term sexual harassment as defined in section 2(h)(i) of the Act of 2010. The same is reproduced hereunder for ready reference: “any unwelcome sexual advance, request for sexual favors, 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; or discrimination on the basis of gender, which may or may not be sexual in nature, but which may embody a prejudicial mind-set or notion, resulting in discriminatory behavior on basis of gender against the complainant.” 14. In light of the above definition and facts on record, the questions requiring determination are:
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		• Whether the Accused No.1 caused sexual harassment to the Complainant? If so, whether he transferred her and declined her leaves in retaliation? • Whether the Accused No.2 facilitated the Accused No.1 in causing sexual harassment to the Complainant? • Whether the Complainant was discriminated on the basis of her gender? 15. Before discussing merits of the case, it is pertinent to note that every case is adjudged on the basis of evidence adduced by parties. In the instant case parties have appeared as sole witnesses and have tendered documentary evidence to corroborate their version. 16. As regards the first formulation, the Complainant has deposed that the Accused No.1 caused sexual harassment to her by staring and touching her, sitting close to her, passing vulgar comments and requesting her for sexual favors. She has deposed that she avoided to go to his cabin and asked him to talk to her in open area or through email. She has further deposed that she filed a complaint of harassment against him whereupon a departmental inquiry committee was constituted to probe into this matter and also of her alleged absence from duty. However, without allowing her a right of cross examination and by ignoring her stance, it recommended that she be terminated if duties were not resumed by her and demoted with issuance of a letter of stern warning if she assumed her duties. The
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		Complainant states that she was terminated from service on 06.09.2023 without any justification. 17.In cross examination the Complainant has denied the suggestions that her grievance would be redressed if she is reinstated in service and paid back benefits and that her grievance was only on account of non-sanction of leaves. She stated that complaints of harassment were filed by the employees against the Accused No.1 but later said that she was not aware whether any complaint of sexual harassment was filed against him. However, she has admitted that she did not mention so in her complaint or affidavit. She has also admitted that she has not mentioned in her complaint as to how many times and before whom the Accused harassed her. She has further stated that she did not mention the alleged sexual harassment to anyone, immediately after it was caused. Further, she filed a complaint of harassment in the department, and that both the said complaint and the instant complaint are on the same grounds. She has admitted Ex.D1, the findings and recommendations of Inquiry Committee dated 28.11.2022 and has stated that the instant complaint was filed afterwards. However, she has denied that she appeared before the Inquiry Committee in a zoom meeting. She admitted that she has not mentioned the words sexual harassment in her emails Ex.P1 and Ex.P2. Mentioning the reason of calling police, she stated that she did not call at 15 for the reason that her leaves were refused but when the Accused No.1 said that she will bear the loss and that upon
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		his assurance that he will allow her leaves, police did not proceed on her complaint. 18.The Accused has denied the allegation of sexual harassment. He negated that on 20.10.2022 he called the Complainant to his office regarding her leave application but harassed her sexually. He has admitted that for ascertaining the alleged harassment an inquiry was held and that both he and the Complainant appeared before the Inquiry Committee. He was of the view that members of the committee had checked the CCTV footage for verifying the alleged incident. 19.As regards the zoom meeting reflected through Ex.D6, the same reveals that the Complainant replied the questions posed to her by the Inquiry Committee. She did not level any allegation of sexual harassment against the Accused No.1 rather her grievance was that he had caused mental harassment to her as she was shuffled three or four times and that when she applied for a ten day leave he threatened her to resign or get herself transferred otherwise she will face serious consequences. Complainant has made contradictory statements regarding the Inquiry Committee. In her affidavit Ex.P1 she has deposed that she was not given a right of cross examination by the inquiry Committee but in her cross examination she has denied that she appeared before it in a zoom session. Relevant conversation of the zoom meeting is reproduced hereunder:
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		“Fawad Bashir: What is your complaint? Complainant: My complaint is that my assignments were shuffled three or four times. I emailed my manager for allowing eleven days leave. He called me in his cabin and warned me that he will issue a warning letter as I had come late for two days. He also told me to either resign or get transferred and threatened that I would face serious consequences. I replied that you are not doing good with me. Then I went out and called the police and also my father and brother. Fawad Bashir: What statement did you give to police? Complainant: I told the police that I had talked to him about my eleven days leave. Fawad Bashir: Anything else that you shared with the police? Complainant: I told the police that after every ten or twenty days my assignment is changed and that he called me in his cabin and asked me to resign or get transferred. Fawad Bashir: What first information did you give at 15? Complainant: I told them that I have been threatened mentally and harassed. As the police official knew my family, therefore, the matter was subsided and he allowed me three-days leave. However, when I saw the attendance register my marked leave was tempered with a white fluid and I was marked absent.” 20. The Complainant has maintained in the complaint that she had informed the management that the Accused No.1 had been causing harassment to her and had also extended threats of forcible resignation and transfer but no oral or documentary corroborative evidence has been produced in this regard. She has mentioned explicitly in her complaint and affidavit, how he allegedly caused sexual harassment to her but this stance lacks any supportive evidence. She
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		says that she did not mention the alleged harassment incident to anyone immediately thereafter. Even if such acts were not brought to the notice of anyone, she could circumstantiate her version through corroborative evidence of at least someone who could relate to her feelings on seeing her immediately after she was harassed. Although she called the police on allegedly being harassed and also told them about the entire occurrence, she did not press her allegations rather, resolved the matter on the assurance of the Accused No.1 that he would allow her leave for three-days. This move of hers reveals that she did not pursue her allegations seriously rather preferred her leaves over them. 21. She has further admitted that the instant complaint is based on the same allegations as mentioned in the Inquiry Report Ex.D1. According to the said report, she has alleged mental harassment caused by the Accused No.1 without mentioning allegation of sexual harassment. While juxtaposing both the complaints, it is revealed that the facts alleged against the Accused No.1 of causing sexual harassment and of the Accused No.2 facilitating him have been added in this complaint. However, these allegations have not been substantiated through any convincing or confidence inspiring evidence. It appears that the Complainant was firstly aggrieved when her leave of five months was refused and later when the Accused No.1 verbally refused to allow her eleven-day leave which aggravated the matter and Complainant called the police.
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		22. So far as the alleged retaliation is concerned, the Accused No.1 has stated that he had always been accommodating towards the Complainant by allowing her leaves. Further, he could only allow a fifteen-day annual leave as per Bank policy. However, he denied that he was eligible to allow examination preparation leaves of the Complainant and had purposely forwarded them to the management. He stated that the Complainant first worked on file processing of unsecured loans, then on HR Coordination and later on file processing of secured loans and was transferred from the post of HR Coordinator as she was not performing properly. 23. Clause 8.4.11 of the Leave Entitlement Policy Ex.D5 duly proves that the sanctioning authority of study leave was the President & CEO and Group Head P&OEG. He thus rightly forwarded her leave application. Further, the Complainant could not claim her eleven-days leave as a right. Being an administrative head of the Branch, it was discretion of the Accused No.1 to allow or decline them. The Daily Attendance Register Ex. D4 fortifies his view that he had been accommodating her by allowing her leaves. In his aforementioned capacity, he was responsible for smooth administration of his branch. Therefore, he had a right to make placements of employees for yielding a higher work output. The same was not done as retaliation, which also comes to light when examining the record of leaves of the Complainant. It is well established in the jurisprudence of
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		the Superior Courts that this Forum cannot adjudicate upon service/disciplinary matters [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: “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, as disciplinary matter fell beyond the realm of the authority and jurisdiction of Federal Ombudsman under the Act, of 2010...” (emphasis supplied) 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 service/disciplinary matters was not disturbed by the Supreme Court in its 2023 judgment. 24. As already mentioned above, evidence of the Complainant regarding the alleged sexual harassment is not convincing or confidence inspiring. Being so, the frequent transfers
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		and declining leaves of the Complainant also cannot be considered as acts of retaliation. Such allegations have to be adjudged impartially as they entail serious consequences for the accused. Consequences of these allegations have been well articulated in the case law titled as Maimoona Rajab Vs. Province of Punjab (PLD 2021 Lah. 598). Relevant excerpt of the judgment is reproduced hereunder for ready reference: “There is no cavil that charge of harassment at workplace, in particular, involving allegation of unwelcome sexual advance and sexually demeaning attitudes entails serious consequences for the accused person, affecting person's life, career and social relationships...” (emphasis supplied) 25. Now adverting to the second formulation, it is maintained in the complaint that the Accused No.1 conveyed to the Complainant through the Accused No.2 that if she did not accept his illegal and unlawful demands, her leave will not be approved. No statement in this regard, has however been made by the Complainant in her affidavit Ex. P1. In cross examination by the Accused No. 2 she has stated that she did not mention about the alleged harassment to the Accused No. 2. When asked how she harassed her, she replied that she forced her to abide by whatever the Accused No.1 had asked from her and stated further that she frequently called her to convey his messages.
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		26. On the contrary, the Accused No. 2 has deposed that the Complainant wanted a favor for sanction of leaves from the Accused No.1 but upon refusal, she called the police and also filed a complaint in the department but with no allegation of sexual harassment. She stated categorically that the Accused No.1 never asked her to convey the alleged messages to Complainant. In cross examination she was not asked nor suggested that she had been conveying such messages, rather the focus remained on suggesting about the leaves and of marking her absent on 21.10. 2022 at his instance. The Complainant blamed her in this regard only when asked to explain the harassment she had caused to her. Although role of the Accused No.2 as facilitator has been alleged in the complaint, the same was required to be proved through cogent evidence. She was neither accused by the Complainant in her affidavit Ex.P1 nor cross examined in this regard. Evidence rendered against the Accused No.2 is hence insufficient to prove her alleged role. Furthermore, since it has revealed that the Accused No.1 never caused sexual harassment to the Complainant, therefore, there remains no role of the alleged facilitation in this regard. 27. Regarding the third formulation, the Complainant claims that she was discriminated on the basis of her gender as she was neither promoted nor her salary was enhanced. Additionally, the job assigned to her and the post for which she was appointed did not conform to her qualification. She
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		stated that after she got promoted as Officer Grade II she continued working on her earlier assignment of loan processing along with one Babar Hussain, being a female employee. Furthermore, she applied for five months leave without pay through proper channel for preparation of C.S.S. examination but it was declined by the authority concerned without any justification. The Accused No.1 has however denied that he caused mental torture to her by assigning work below her qualification standard. 28. Evidence reveals that the Complainant has qualified M.Phil in HR, M.Sc. in Economics and M.Com Banking and Finance. Rija, Accused No.2, who succeeded the Complainant was also questioned that the Complainant was more qualified than her to which she showed her unawareness. She, however, denied that she was concealing this fact as she was on a higher post on recommendation of the Accused No.1. Although the Complainant claims that she was not promoted nor assigned duties according to her job description, she has not provided any document in this regard. No doubt she was highly qualified, yet she had to perform duties as an Officer Grade II. She has also not tendered any evidence to prove that her male colleagues in the same grade were performing higher duties. Her evidence thus lacks specifics to make out a case of gender based discrimination
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		29.As regards the question of maintainability of complaint in view of the earlier departmental complaint of harassment is concerned, upon an objection raised in the preliminaries of the written reply, this Forum vide order dated 05.07.2024 considered the instant complaint as a first complaint by holding the inquiry dated 28.11.2022 as redundant. This order has attained finality as it was not assailed before the higher forum. Arguments of the learned counsels of the Accused that the instant complaint is not maintainable as earlier complaint based on the same allegations has been decided, thus holds no force nor there is any strength in their arguments that decision on the instant complaint is tantamount to double jeopardy. 30.This Forum is mindful of the fact that in matters of workplace harassment, direct evidence is often rare, and that the testimony of a complainant may suffice to establish the allegation. However, in the instant case, testimony of the Complainant lacks the requisite clarity, consistency and detail. She has also been unable to convince the forum that she was discriminated on the basis of her gender by assigning duties not consonant with her qualification and job description. 31.In view of the foregoing, I am of the considered opinion that the Complainant has failed to make out a case of sexual harassment and gender-based discrimination against the
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		Accused No.1 and facilitation against the Accused No.2. The instant complaint is thus dismissed. FEDERAL OMBUDSPERSON
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