

OFFICE OF THE FEDERAL OMBUDSPERSON

FOR PROTECTION AGAINST HARASSMENT OF WOMEN
AT THE WORKPLACE, REGIONAL OFFICE LAHORE

ORDER SHEET

COMPLAINT NO: FOH-HQR/0000422/2022

Date of Institution: 12-10-2022

Serial No. of Order of Proceedings	Date of order of Proceeding s	Order of other proceedings with Signature of Federal Ombudsperson		
		Saima Rashid	VS	GULISTAN MALIK & OTHERS
1	2	DEPARTMENT: APNA MICRO FINANCE BANK LTD, HEAD OFFICE, LAHORE		
66	07.07.2025	Subject: <u>Final Order</u> 1. This order shall dispose of a complaint filed by Saima Rashid, Assistant Vice President/Bank Manager (Complainant), against Gulistan Malik, ex-President (Accused No.1); Tariq Raza, Area Manager (Accused No.2); Azam Shafiq, Area Manager (Accused No.3) and Qasim Mansoor, Head HR (Accused No.4), all employees of Apna Microfinance Bank Ltd. (Bank), under Section 8 of the Protection Against Harassment of Women at the Workplace Act, 2010 (Act of 2010). I. INTRODUCTION AND PROCEDURAL HISTORY Brief facts are that the Complainant, a seasoned banker with sixteen years of experience and Assistant Vice President/Branch Manager, alleges that she was subjected to persistent sexual harassment by multiple senior officials at her workplace. She accuses the Ex-President (Accused No.1) of being a “notorious womanizer”, stalking her from the beginning of her tenure, making sexually suggestive remarks and gestures, and sending inappropriate WhatsApp messages soliciting sexual favors. Accused No.2 also allegedly pressured her into an extramarital affair through offensive messages. Accused No.3 is said to have supported these advances by using double-meaning language to manipulate her. Meanwhile, Accused No.4, the HR Officer, remained silent despite being aware of the misconduct, failing to take action or ensure her protection as required by bank policy.		

		2. Earlier, the instant complaint was dismissed by this Forum vide order dated 26.07.2024 while observing that <i>“the instant complaint lacks merit and appears to have been filed by the Complainant solely to evade the consequences of disciplinary proceedings against her.”</i> 3. The order was assailed in Representation before the President of Pakistan wherein the Complainant raised several objections regarding the misinterpretations and incorrect inferences of evidence and violations of procedural justice. The main objections include: I. Explicit evidence such as viral pictures of Accused No.1 admitted by the Accused and corroborated by other witnesses overlooked. II. Evidence, including text messages and cross-examination admissions of Accused No.1, confirming exchanges via his phone not fully considered. III. Despite WhatsApp chats indicating harassment, it was concluded that there was insufficient evidence against Accused No.2. IV. An email exchange between the Complainant and Accused No.4 was disregarded despite his admission in cross-examination of being in contact with the Complainant. V. The finding of insufficient evidence, ignoring key records, and admissions, leading to a flawed judgment. VI. The delay in filing the complaint was due to fear of retaliation in a hostile work environment, which has been overlooked. VII. Evidence of the Complainant's suspension and alleged embezzlement were misconstrued as grounds to avoid disciplinary action instead of recognizing them as retaliation. VIII. The Complainant's civil suit injunction was not considered, which restrained further harm to her employment while the Bank terminated her in retaliation. 4. Vide order dated 10.02.2025 passed in the Representation, the President of Pakistan has given the following observations:
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“The matter has been heard at some length. Both the petitioner and the respondent agree that there are many aspects which need to be resolved by the learned Ombudsperson, and both of them will have no objection if a direction is issued to the learned Ombudsperson to hear the matter afresh and decide it accordingly. The request is reasonable, the learned Ombudsperson shall decide the matter afresh after providing an opportunity of hearing to both the parties.” In view of the foregoing, this order is now passed following a thorough re-examination of all evidence and arguments.

II. LEGAL FRAMEWORK & ISSUES FOR DETERMINATION

5. The definition of “sexual harassment” under Section 2(h)(i) of the Protection Against Harassment of Women at the Workplace Act, 2010, includes.

“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;”

6. Based on this legal framework, the following questions are formulated:

- (1) Whether the complaint is time-barred;
- (2) Whether Accused Nos. 1, 2, 3, and 4 committed sexual harassment against the Complainant.

III. DETERMINATION ON LIMITATION

7. In his written reply, Accused No.1 challenged the maintainability of the present Complaint by alleging that it was time-barred as it was filed after a lapse of almost two (2) years. The Complainant stated that the delay in filing her complaint was due to personal and cultural reasons, including the fear of social stigma, damage to her family's honour, and apprehensions

about losing her job. She also referenced internal obstacles, such as the alleged non-functionality of the Bank's harassment committee. However, later in her cross-examination, she admitted that the committee was functional and that she had been a member of it.

8. In the case of *Uzma Naveed Chaudhry PLD 2022 SC 783* it was held that

"In our social and cultural setting where prevailing notions of family honour and taboos play a dominant role, it is not easy for a woman to speak up about such deeply disturbing incidents. There is also the apprehension of counter allegations hurled against her character by the delinquent. For these and other reasons, many cases of sexual harassment remain unreported. Victims of sexual harassment who exhibit the courage to report the matter against all odds should not, therefore, be turned away on the ground of delay in lodging the complaint..."

This Forum, in agreement with the apex court, finds that victims of sexual harassment face significant social, psychological, and institutional barriers to reporting. Therefore, the delay in this case is justifiable and does not render the complaint non-maintainable.

IV. ANALYSIS OF WHETHER THE ACCUSED CARRIED OUT ACTS OF SEXUAL HARASSMENT

i. Accused No. 1 – Gulistan Malik – Ex-President Apna Microfinance Bank

9. The Complainant alleged that Accused No.1 subjected her to blunt sexual inducements, vulgar language, and unwelcome advances both verbally and via WhatsApp. She cited statements such as "*Main tumhen bohat khush rakh sakta hoon*" and "*Aaj tak mujhe kisi aurat ne inkar nahi kiya.*" She also relied on viral images which depict Accused No.1 in an indecent state.

10. However, during cross-examination, the Complainant admitted that Accused No.1 was not mentioned in her initial complaint to HR or in the email sent to this Forum. The WhatsApp messages provided in evidence

remained unproven as Accused No.1 admitted only to a single benign message (Ex.PW1/3) and denied all others. Additionally, it is noted that in WhatsApp messages in Ex PW 1/12 that in response to the Accused telling her “*Jan I trust you blindly....*”, the Complainant responded with “*mai bhi trust karti hon*” which clearly indicates that the interactions between Accused No. 1 and the Complainant were not entirely unwelcome. The fact that the Accused No.1 retired one year prior to lodging of the complaint rules out the possibility of abuse of authority, as the possibility of imminent retaliation was non-existent.

11. Moreover, explicit pictures of Accused No. 1 were not sent directly to the Complainant but were shared generally on social media and were considered viral images. Though explicit in content, the inference of individual harassment cannot be drawn from these pictures.

12. In the absence of credible, consistent, and corroborative evidence, the allegations against Gulistan Malik are unsubstantiated, and he is accordingly exonerated.

ii. Accused No. 3 – Azam Shafiq - Area Manager Apna Microfinance Bank

13. Accused No.3 was alleged to have attempted to persuade the Complainant into developing an illicit relationship with Accused No.1 and to have used double entendres. The Complainant claimed that when she expressed confusion, he responded dismissively, implying she should understand the meaning.

14. However, there is no independent or documentary evidence to support these allegations. The Complainant made contradictory statements in cross-examination regarding the circumstances of her suspension, initially claiming coercion and later acknowledging she signed the letter voluntarily. It also came to light that Accused No.3 had initiated the departmental inquiry against her, suggesting a potential motive for her allegations.

15. Given the lack of corroboration and inconsistencies in the Complainant's statements, the allegations against Azam Shafiq are not substantiated.

iii. Accused No. 4 – Qasim Manzoor - HR Manager Apna Microfinance Bank

16. The Complainant asserted that Accused No.4, as Head of HR, remained silent despite knowing about the harassment and failed to take action. She alleged that when she attempted to submit her complaint, she was told that the harassment committee was defunct.

17. However, during cross-examination, she admitted that the committee was functional and that she herself was a member. She also conceded that Accused No.4 bore no personal malice against her. The only email on record (Ex.PW1/22), dated 15.09.2021, did not mention Accused No.1 but generally referred to unethical conduct by the Area Managers. She also admitted to asking Accused No.4 for a copy of a customer complaint in a later message, but not mentioning harassment.

18. The evidence clearly indicates that no formal complaint was lodged with Accused No.4 despite the fact that the Complainant herself was involved in the institutional mechanism meant to handle such issues. Thus, no culpable silence or complicity is established against Qasim Mansoor.

iv. Accused No. 2 – Tariq Raza - Area Manager Apna Microfinance Bank

19. The allegations against Accused No.2 are grave and supported by documentary evidence. The Complainant produced a multitude of WhatsApp messages (ExPW1/7 to ExPW1/20) sent over a year and a half. These included emotionally coercive and sexually suggestive remarks and repeated requests for intimacy. A few examples include;

"Bun jao mari

Plz. Plzzzz nna

Pura aik saal hou gia ha aaj

Now I will wait 4 u

Love u bs

Bs hold me"

(Ex-PW 1/8)

"Saima

Mane jao

U ans me in relationship

*Plz
And hold me”*

(Ex-PW 1/19)

20. The Complainant did not reply to any of these messages and generally her replies were minimal and non-committal. In Ex-PW 1/15 she explicitly expressed discomfort and tried to maintain professional boundaries, saying “*Hum aik hi bank mein kaam kartay hain*” and “*I don’t know why you say such things.*”

21. Accused No.2 claimed the chats were fabricated but offered no forensic rebuttal or alternative version. He failed to apply for the examination of the WhatsApp records or offer any credible explanation for the chat content. Moreover, his claim that the Complainant initiated friendly contact is not supported by the record.

22. In light of the Supreme Court’s guidance in PLD 2023 SC 588 (Nadia Naz) reproduced here under;

“...In cases of harassment, the victim's perspective is relevant as against the notion of acceptable behaviour. The standard of a reasonable woman should be considered to determine whether there was harassment, which rendered the workplace hostile and all relevant factors should be viewed objectively and subjectively...”

This Forum recognizes the importance of evaluating harassment from the perspective of the victim. The prolonged and inappropriate nature of the messages, coupled with their unsolicited and persistent nature, clearly falls within the statutory definition of harassment.

23. Accordingly, Accused No.2 is found guilty of sexual harassment.

V. CONCLUSION

24. The complaint is dismissed against Accused Nos. 1, 3, and 4 for lack of credible and substantiated evidence. However, the complaint is accepted against Accused No.2, Tariq Raza.

		25. As a consequence, Accused No.2 is penalized with a reduction to a lower post for a period of two years. He is further directed to pay a fine of Rs. 200,000, of which Rs. 100,000 shall be paid to the Complainant as compensation, and Rs. 100,000 shall be deposited into the Government Exchequer. 26. The complaint is disposed of accordingly. FEDERAL OMBUDSPERSON
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