



FEDERAL OMBUDSMAN
For Protection against Harassment of Women at Workplace
Islamabad

J U D G M E N T

1. Complaint Number: 1(80)/2013-FOS
2. Date of Institution: 26-09-2013
3. Date of Decision: 29-08-2014
4. Complainant: Seema Mir
5. Opponent: Muhammad Naeem Chaudhry

Justice (R) Yasmin Abbasey,

Ombudsman:

1. By this judgment I will dispose of both interconnected complaints filed by Mst. Seema Mir and Mst. Shumaila Noreen as facts of both cases are depended on each other.
2. Complainant Mst. Seema Mir, Incharge Monitoring Section, in Associated Press of Pakistan Corporation (APPC) has filed her complaint under No.1(80)/2013-FOS against Director News Muhammad Naeem Chaudhry of APPC that she is facing intimidation and foul play at his hands for last over 8-months on gender discrimination basis. This intimidating attitude of opponent is because of support of complainant, to one of her female colleague Mst. Sidra Bokhari in a sexual harassment case, as member of departmental sexual harassment committee.
3. It is stated by complainant that on 02-01-2013 at about 11:50 am she received a call from opponent. He talked with complainant for about 4-5 minutes in very indecent and highly uncivilized manner on flimsy grounds. He targeted her husband Mir Attiq-ur-Rehman incharge of court reporting in the same organization on one or the

other pretext. Although her husband Mir Attiq had made a statement in writing not to work as Chief Reporter English reporting in APPC. This incident of 02-01-2013 is said to have been brought by complainant in knowledge of Executive Director as well as President APP employee union Islamabad. It is stated by complainant that on assurance of Executed Directed she postponed to meet with Managing Director of APP as Executive Director had assured her to bring the matter into knowledge of Managing Director and also talk with Director News.

4. According to complainant inspite of all these assurances issuance of Show Cause notice to her without seeking her explanation in the matter is a serious action and based on malafide. It is allege that prior to the present incident opponent was removed twice on sexual harassment basis in 2012 when almost all female journalist and staff members of APP had raised this issue of harassment against opponent before the then Information Minister Dr. Firdous Ashiq Awan. But unfortunately he managed to get the same post again. It is stated that inspite of more than 8 months no action has been taken against opponent nor any inquiry was conducted against him for the incident happened in 2012.

5. She further alleged that inspite of reminders issued by the Secretary Ministry of Information to Managing Director of APP, management of APP did not bother to pay attention to directions of ministry for holding inquiry. A letter dated 10-01-2013 was also issued by the Ministry of Information to Managing Director APP to send the repot to ministry on the subject matter by 17-01-2013. In contrary to directions management of APP had promoted the said officer by giving him charge of three directorships ignoring senior officers to hold those posts. Complainant's husband also requested number of times to Managing Director app to holding inquiry in the case of complainant but to no away till date.
6. On the contrary inquiry committee on issue of harassment was dissolved. Complainant was also member of the committee when this targeted incident occurred. Subsequently Managing Director reconstituted the committee headed by himself having President APP union as its member who belong to the group of the opponent Naeem Ch. which show malafide of management. After issuance of Show Cause notice opponent also created offensive work environment

through different tactics which can be notes from the notices put by opponent on personal files of complainant. Even her earned leave applications were adversely remarked by opponent just to irritate her. The threatening messages sent by opponent through his bureau chief were also brought by complainant in notice of MD. After exhausting all available forums and waiting for months, complainant has approaching this forum.

7. Opponent Naeem Ch. in his reply has taken preliminary objections as to maintainability and having no cause of action. It is stated by opponent that instant complaint has been filed by complainant and her husband Mir Attiq to conceal their poor work performance. Complainant is habitual 'shirker' and it is because of that Show Cause notice was issued to her on complaint of Director News the opponent with approval of Managing Director. It is stated that development irrupted in October/November 2012 when complainant's husband tried to have a senior position of Director, breaching all merits and fitness conditions and pressurize opponent to support him. Refusal of opponent annoyed him and her wife the complainant and baseless allegation are leveled against him. Opponent was reassigned as Director Economic News Services by the then APP management on political

pressure and not on any charge of harassment. There is not a single complaint against him on the ground of harassment.

8. Complainant and her husband also pressurize Managing Director APPC through an officer of ISI and other persons for taking action against opponent on baseless ground of harassment. Complainant had tried to hide herself behind Harassment Act so that the management could not take any action on her undisciplined attitude. Complainant has alleged intimidating attitude against opponent and his companions but names of those companions has not disclosed by her. Opponent was served with a legal notice on baseless allegations which was brought in knowledge of management for further action. Abdul Latif Ch. Bureau Chief APP Islamabad have also reported against complainant of her dereliction of duty and moved a note in regard to opponent for onward submission of Managing Director.
9. This irresponsible attitude of complainant Mst.Seema Mir created a mess on 13-09-2013 in the office of federal secretary for information where all senior editorial staff were called for an interview to select for visit to Russia in OANA meeting. Behavior of complainant and her husband disrepute APPC and that incident was brought

by the opponent in notice of Managing Director alongwith, Director IT and Chief News Editor Urdu News Service. Opponent being Director News is duty bound and responsible to check her performance and output of different editorial section including monitoring section to ensure a smooth professional function of News Agency. Complainant's husband used abusive language in presence of reporter against opponent when show cause notice was issued to complainant for dereliction of duty. Prior to alleged incident complainant inspite of serving under her subordination for over 22-years never complaint about behaviour and attitude of opponent. The complaint filed by the Mst. Sidra Bokhari reporter APP was not against the opponent. Complaint is false and frivolous and liable to be dismissed.

10. In another complaint filed by Mst. Shumaila Noreen, against Mst. Seema Mir and Mir Attiq-ur-Rehman having No. 1(82)/2013-FOS is alleged that because of being witness of Director News Muhammad Naeem Ch. in case filed by Mst. Seema Mir she is having a constraint worst character assassination, harassment, threats and intimidation at workplace at the hands of incharge monitoring section Mst. Seema Mir and her husband Mir Attiq Senior Reporter APP. Copies of alleged messages

produced by Mst. Seema Mir and Mir Attiq-ur-Rehamn said to have been sent by her through cell No.0333-5349396 to some female employees of APP are fake and fabricated documents just to scare and harass complainant Mst. Shumaila Noreen for not deposing in connected case.

11. It is further stated that above referred cell number was not registered in her name, however, as sim was having some technical problems therefore she had stopped to use that sim to ensured that no wrong calls or messages could be sent or received. Another new sim was obtained by her. The alleged messages have been managed by Mst. Seema Mir and her husband. It is further stated that her apprehension of misuse of cell No. 0333-5349396 now find to be correct. A criminal offense has been committed by incharge monitoring section Mst. Seema Mir and her husband. It is prayed that notice of alleged messages be taken, and criminal proceeding be initiated opponent Mst. Seema Mir.
12. It is alleged that beside her, Naheed Akhter, reporter, Mst. Moniba Iftikhar, editorial assistant and Zahida Qasim computer operator who had also submitted affidavit in evidence in connected case are been blackmailed and threatened of dire consequences by Mst. Seema Mir for

exposing against Incharge Monitoring Section. Both complainants Mst. Seema Mir, her husband and their companions are threatening male and female witnesses of connected case within and outside the office through different modes and communications.

13. Opponent Mir Attiq in his reply stated that the complaint filed by Mst. Shumaila Noreen is not maintainable as it is based on the alleged ground of threats given to her to support Director News Muhammad Naeem Ch. The copy of messages produced is correct and have already been sent to Ufone Company for verification by the court. The version placed by Mst. Seema Mir in her evidence cannot be called as harassment towards Mst. Shumaila Noreen. This complaint has been filed by Mst. Shumaila Noreen in retaliation to support on Director News Naeem Ch., who has been constantly harassing opponents directly and indirectly. It is stated that it would have been just and equitable that during hearing of Mst. Seema Mir's complaint opponent Naeem Ch. either should have been sent on leave or deputed somewhere else as provided in the Act. But because of his influential position ignoring his bad performance and merit he has been elevated to the post of Executive Director. Opponent Naeem Ch. misused his authority against the opponent, numbers of

time. Even during hearing of connected matter he misused his powers and pressurized his subordinates to give evidence against Mst. Seema Mir and had maneuver to purchase stamp papers in unlawful manner for preparing evidence of its tens subordinate employees in his favour.

14. Naeem Ch. had obtained their signatures by using undue influence and coercion on them, and present complainant Mst. Shumaila Noreen is one out the witnesses. The copies of text messages filed by Mst. Seema Mir are correct and true.
15. Opponent Mst. Seema Mir almost in precise manner have pleaded the same defence as has been made by opponent Mir Attiq.
16. From perusal of record it is found that first complaint filed by Mst. Seema Mir on 24-9-2013 before this forum was against Muhammad Naeem Ch. Director News in APPC on the ground that he used uncivilized language while talking with her on phone on 02-01-2013 and thereafter is continually creating hostile and unhealthy atmosphere against her in the organization. According to complainant Mst. Seema Mir she being victimize by opponent as in one another sexual harassment case filed by Mst. Sidra

Bokhari. Complainant Mst. Seema Mir supported her which did not please to opponent. While going through the application filed by Mst. Sidra Bokhari I have found that it was against Shahid Ali Butt, a Senior Reporter in APP. How for any decision made by complainant Mst. Seema Mir being a member of inquiry committee against Shahid Ali Butt will annoy the opponent has not been brought on record. Even otherwise complainant in her cross examination has stated that Mst. Humaira Sharif and Sidra Sharif had filed complaint against opponent to Management Director APP also do not find any support from the record. Anyhow coming up to her own case it is alleged by complainant in her complaint as well as in her statement on oath that on 02-01-2013 opponent ringed her at 11:50 am and during that conversation on phone he used indecent and uncivilized language. This matter was reported to Executive Director as well as President of APP Employee Union. Executive Director had assured her to bring this matter in the knowledge of Managing Director and will also talk with the Director News the opponent so that it may not happen again. But it is stated by complainant that in contrary to these assurances on, 03-01-2013 a show cause notice was received by her issued on 02-01-2013.

17. The record further shows that on complaint moved by complainant Mst. Seema Mir to Managing Director on 14-01-2013 inquiry committee was constituted and one Executive Director Abdul Waheed Khan was appointed as inquiry officer. He had to submit report within 07-days. Record further shows that complainant Mst. Seema Mir had also approached Ministry of Information and Broadcasting on this very issue of using abusive language and shouting by opponent and by letter dated 10-01-2013 Assistant Director of Ministry of Information and Broadcasting had advised Managing Director of APP to examine the complaint of Seema Mir as per direction given in the letter. But record shows that inspite of repeated four reminders neither those were replied nor report has been placed on record by opponent either of the inquiry committee constituted by themselves on 14-01-2013 nor has been sent to Ministry of Information and Broadcasting.
18. Irrespective of the nature of allegation whether they are true or false will be discussed later on, under Clause C (X) schedule of code of conduct of Act 2010. Organization of APP was bound to make such temporary

adjustment so that the accused and complainant do not have to interact for official purpose during the investigation period. This would include temporary changing the office so that one party may not have excessive powers over the other job condition. But record shows that no such temporary arrangement was ever made by the organization of APP to keep both the parties in the matter, at distance place.

19. On the contrary taking benefit of this position as Director News opponent seems to have been influencing continually on complainant Mst. Seema Mir and had also disturbed her husband who is also an employee of APP Islamabad. It seems that after telephonic conversation in between complainant and opponent on 02-01-2013 and after receiving show cause notice complainant had served a legal notice on opponent through his counsel on 04-01-2013. This notice was brought in knowledge of MD of APP by the opponent on 08-01-2013 and thereafter a continuous act of reporting against complainant and her husband continued on one reason or the other which reveals from performance report of monitoring section. Performance report of complainant has been filed by opponent Naeem Ch. on 07-10-2013 alongwith his statement. Perusal of that reports had

shows that most of them has been signed by opponent or by the Abdul Latif Ch who is one of his witness and is also under his subordination. In the same way he has also produced performance report of Mir Attiq husband of the complainant from page 51 to 115 which are also countersigned by opponent. Report on note portion dated 05-09-2013 further shows that opponent taking benefit of his position was continuously putting pressure on complainant and her husband and was trying to disturb their record which shows bias attitude of opponent. Report dated 03-10-2013 produced by opponent themselves further prove that opponent was not prepared to leave very tiny issues like presence of children of complainant for short time in the office and immediately reported to his higher authorities.

20. Ext. O/1 dated 26-4-2013 as well as show cause notice of 02-01-2013 are silent about the particular timing and period when complainant had not observed duty timing mere statement that opponent did not observe timing, without any sound evidence cannot be taking as gospel truth because even in the show cause notice of 02-01-2013 only one day irregularity of late arrival and early departure from the office on 02-01-2013 have been shown and nothing else. In such circumstances without

any solid evidence report made by Abdul Latif Ch Bureau Chief APP to opponent Director News and his immediate action for taking disciplinary action without any recommendation of Managing Director, inspite of circular issued on 26-02-2013 that all disciplinary actions posting transfer etc will only be initiated after approval of the Managing Director and these initiatives will be process through the office of Executive Director seems to be an intolerance attitude of opponent Naeem Ch. as appears in note portion produced as Ext. O/1. This conduct apparently showed bias attitude of opponent towards complainant.

21. It is also pertinent to note that first complaint moved by complainant on 03-01-2013 inspite of all these developments and inability of Abdul Waheed Khan the inquiry officer appointed on 14-01-2013 was not referred to this inquiry committee constituted on 20-8-2013 for its disposal.
22. Coming up to the evidence produced by the parties although in her affidavit in evidence complainant has gone at a further step than to allegations made by her in the complaint but even if those are ignored the steps taken by the opponent to malign the complainant in one way or other apparently fall within the definition of

creating hostile environment at workplace. Opponent in his statement has stated that when he reported, late arrival and early departure of complainant from office, to Managing Director he verbally directed him to call her explanation and on advice of Managing Director a draft of explanation was placed before him and with his approval show cause notice was issued to complainant. But this statement of opponent does not find support from the contents of show cause notice issued on 02-01-2013. Opponent's witness Muhammad Asghar claiming himself to be eye witness of telephonic conversation of 02-01-2013 deposed that no such abusive and unhealthy words were used by Director News to complainant. He talked with her in very decent and polite manner. Although this statement of Muhammad Asghar find support from the contents of reply produced by the opponent but at the same time it cannot be ignored that he is an interested witnesses having links with opponent. In his cross examination he has admitted that once during proceeding of this case when opponent was out of country, this witness Muhammad Asghar appeared on his behalf for intimating his engagement. Again with reference to the incident happened on 02-01-2013 in his affidavit Muhammad Asghar claim to be eye witness where as in cross examination it is stated by him that "*I came to know*

about the incident happened to the complainant who is incharge of monitoring section on the same day” meaning thereby that he has stepped down from his previous statement to be an eye witness. In the same way with reference to purchase of stamp paper it is stated that “at present I do not remember when I purchased stamp paper of my affidavit in evidence but at second stage he deposed that my personal assistant had purchased that stamp paper”.

23. Second witness Muhammad Aftab Zahoor deposed that complainant’s husband who is also an employee of APP brought the matter in issue in his knowledge on a telephone. He further added that when he reached in the office complainant’s husband created mess by leveling baseless allegation and using abusive language against the Director News. He further alleged that complainant does not observe the duty hours and use to come late and leave office early but veracity of this witness becomes doubtful when he made two different statements at the same time with reference to the preparation of affidavit in evidence. At one stage it is staged by him that his affidavit in evidence was drafted in office of opponent whereas at the very second moment he changed his statement and deposed that I myself had gone to the office of counsel of opponent. It was not in

my knowledge that Mr. Shahid Mehmood Khokhar, Advocate is representing opponent in present matter but I at my own had consulted him and told him what I want to give evidence in matter. This twisting statements and taking help of opponent Naeem Ch's advocate for drafting his affidavit in evidence cast a shadow of doubt.

24. In the same way the third witness Mst. Shumaila Noreen in her affidavit in evidence has just highlighted the moral and ethical value of opponent. But even this statement of Mst. Shumaila Noreen because of his admission that she never appeared before Notry Public for its testification due to rush of work in that area but it was got verified by Furqan losses its value. Beside that she has admitted that number of employees of APP come alongwith opponent on date of hearing before this forum and she also appeared number of time for opponent Naeem Ch. in the matter.
25. During proceeding complainant Mst. Seema Mir had produced certain copy of text messages said to have been sent by this witness Mst. Shumaila Noreen showing an adverse opinion against opponent Naeem Ch. but statement of one expert Mehmood-ul-Hassan, Deputy Director cybercrime wing FIA Islamabad in material in this regard. In his statement he deposed that with the use of

fake text messages and fake Text SMS Editor, messages can be changed by its receiver and can also be send from any other cell number than to the sender or any other person. In such circumstances I do not want to give any observation on this technical issue as to whether messages produced by Mst. Seema Mir were sent by Mst. Shumail Noreen or by some other person. However, from perusal of record and from the evidence discussed above it is crystal clear that opponent created hostile work environment for complainant. Her complaint moved to the Managing Director was not initiated at any stage till approach of complainant to this forum because of senior position of opponent Naeem Ch. Reminders issued by Ministry of Information and Broadcasting discussed above further support to my view that grievances placed by complainant were never addressed because of opponent's position in APPC organization.

26. In view of above this office imposed a major penalty on opponent of reduction of lower grade to special grade presently hold by opponent from Director News so that taking advantage of his senior position he may not create such unhealthy environment for other employees in future. Organization of APPC is hereby directed to implement the decision and intimate this office within

15-days.

27. So for the other complaint filed by Mst. Shumaila Noreen is concerned which is outcome of main complaint filed by Mst. Seema Mir. Although in her affidavit in evidence she has repeated the same allegations as has been reported in her main complaint but in her cross examination she has admitted that *"I have neither any interaction with Mst. Seema Mir nor with Mir Attiq with reference to present complaint. Many persons both including male and female were present when I was defamed by some colleagues. I cannot names those colleagues of mine who defame me.* In view of this statement of complainant I do not find any force in the allegations made by her in her main complaint.
28. In view of above main complaint filed by complainant Mst. Seema Mir is hereby allowed as above and compliant filed by Mst. Shumaila Norreen is hereby dismissed for want of evidence.

YASMIN ABBASEY
Ombudsman