

BEFORE THE FEDERAL OMBUDSPERSON
FOR PROTECTION AGAINST HARASSMENT OF WOMEN
AT THE WORKPLACE, ISLAMABAD

Misbah Iqtidar

....Complainant

Versus

Imran Ullah

....Accused

Complaint No. FOH-HQR/0000439/2022

Order
05-01-2024

1. Misbah Iqtidar (**hereinafter called the Complainant**) and Imran Ullah Khan (**hereinafter called the Accused**) are both officers in the Postal Group of Pakistan. The Complainant however, is junior to the Accused. After completing her Common Training Program and the Specialized Training Program, the Complainant was posted as Divisional Superintendent Postal Services, Mansehra Postal Division in December 2017. At that time, the Accused was Assistant Post Master General, (O&FS) Peshawar (BPS-18).
2. The Complainant approached this forum by way of filing the subject complaint on 28-10-2022 wherein she charged the Accused with harassing her in multiple ways by taking full advantage of his official position and prayed that appropriate action be taken against the Accused for safeguarding other vulnerable female workers.
3. In her complaint, the Complainant submitted that she would wear a face veil in office but the Accused insisted that she show her face to him. She states that he also used to force the Complainant to accompany him in his own personal car to distant post offices in Mansehra Division. Further, he visited Mansehra nearly every week on one pretext or the other and would remain sitting in her office, although he was supposedly visiting Mansehra GPO and not the office of the Complainant. During these visits, the Accused also sent indecent messages to the Complainant. The Complainant alleges that this compelled her to change her cell phone number but, the Accused managed to obtain her new number and started texting foul messages again. Moreover, in the initial months of

her service the Accused ordered the Complainant to conduct an inquiry into the illegal appointment of an official i.e., Mr. Usman Ghani in MST Peshawar Division. When the Complainant came to Peshawar for the said inquiry, the Accused insisted on her stay in Peshawar saying that it was an intricate case and the Complainant was inexperienced, so the Accused would help her at night in writing a proper inquiry report. The Accused also informed the Complainant that he had booked a room in the Civil Officers Mess Peshawar for her. Subsequently, the Complainant was again called to Peshawar by the Accused for meeting the new Post Master General, Mr. Samiullah Khan, and he insisted that she stay in Peshawar. He texted the Complainant that he had booked a room for her in Shelton Rezidore Hotel. The Complainant went to Peshawar along with her father which annoyed the Accused. According to the Complainant when she went to pay the charges of the room in the morning she learnt that the bill had already been paid by the Accused which resulted in her father doubting her. That thereafter on two occasions the Accused sent gifts, allegedly gold, to the Complainant through courier but she returned them unopened through postal mail and requested the Accused to stay away from her personal life. The Complainant was then tasked for verifying the accounts of Chitral GPO in September 2019. This prompted the Accused to make an emergency visit to Chitral and he asked the Complainant to stay there till his arrival. The Complainant, however, rushed back to Mansehra from Chitral immediately. Eventually the Complainant reported her harassment verbally to Mr. Yousaf Afridi, Post Master General Peshawar (now retired) who assured the Complainant that he would advise the Accused to behave properly. She lastly stated that she has filed the instant complaint because the Accused has again been posted as Deputy Post Master General (Admin) KP and so she seeks protection from him.

4. In his response to the complaint, the Accused has repudiated all of the allegations of the Complainant and has submitted that he was never the immediate boss of the Complainant. That it was not possible for him to visit Mansehra every week as his tour program had to be approved by the Post Master General KP. That he neither asked the Complainant to show her face to him nor to accompany him in his personal car. Insofar as the inquiry against postal employee Usman Ghani was concerned, the same was assigned to the Complainant by the competent authority i.e., the Post Master General and not the Accused. That the Accused never asked the Complainant to meet the new Post Master General and so did not reserve a room for her in any hotel in Peshawar and did not pay its bill. The Accused also denied sending any gift to the Complainant through courier service. He further refuted the allegation that he requested the Complainant to stay in Chitral till his arrival there. With respect to the Complainant reporting the harassment to Mr. Yousaf Afridi he contended that the same could be verified from Mr.

Yousaf Afridi since the latter never informed the Accused about the Complainant's grievance. He stated that he is unaware of the text messages that the Complainant has referred to and attached with the complaint and that in any event, the cell phone of the Complainant would have to be forensically examined. Ultimately, the Accused submitted that he has rendered 19 years unblemished service in the Post Office Department, in a health project in KP and in the Federal Secretariat and that he had never harassed or even intended to harass any female officer/official. He therefore prayed that since the allegations of the Complainant against him are baseless the complaint against him be set aside.

5. The Complainant submitted a rejoinder to the reply of the Accused alleging that he has previously been charged with harassment by at least three female officers in the Federal Secretariat due to which he was repatriated from the Federal Secretariat. The Complainant also stated that the Post Master General does not directly nominate Inquiry Officers and that the names are recommended by the Assistant Post Master General. Lastly she requested this forum to examine Mr. Yousaf Afridi on oath to ascertain whether the Complainant had shared the text messages of the Accused with him with a request that he instruct the Accused to stop harassing her.

6. In her evidence before this forum, apart from her own statement, the Complainant produced Mr. Yousaf Afridi who recorded his statement as PW 1. In his cross-examination Mr. Yousaf Afridi endorsed the contention of the Complainant that she approached him with a complaint against the Accused and showed him messages sent by the Accused on 14-11-2019 wherein he had stated that he had arranged alternate accommodation for the Complainant, a fact which she should not tell the Post Master General (who at that time was Mr. Yousaf Afridi). Mr. Yousaf further deposed that he called the Accused into his office the same day and verbally advised him not to repeat similar behaviour in the future. That after this meeting neither the Complainant nor the Accused contacted him regarding each other's behaviour. In his evidence the Accused only produced himself as a witness.

7. I have heard the arguments of both the sides and have also perused the evidence on record.

8. An examination of the case file reveals that the primary defence of the Accused against the allegations of the Complainant is that she has failed to bring on record any documentary evidence to substantiate her allegations, for instance the Complainant could not specify the persons before whom the Accused asked her to remove her mask or the date and time of when this conversation took place. Further, that she did not have photos or CCTV footage showing the Accused visiting her in her office and that she has been

unable to produce any receipts showing that the Accused either paid for her room in Shelton Rezidore Hotel or sent her any gifts via courier. However, in raising this defence the Accused has failed to take into account the fact that '*harassment usually occurs between colleagues when they are alone, therefore usually it is difficult to produce evidence*' [refer Clause xii of the Schedule to the Protection against Harassment of Women at the Workplace Act, 2010 (**Act**)]. In any event, the Complainant has categorically observed in her cross-examination that no CCTV cameras are placed in her office and it does not appeal to common sense that a junior officer like the Complainant would feel comfortable taking photos of her senior officer who is visiting her office. Even her failure to produce the receipts for the hotel stay and the gifts is of little significance as both these events took place around 3-4 years ago when the Complainant had no intention of reporting the matter to the higher-ups. It must be noted that in her complaint the Complainant has expressly submitted that she is filing the instant complaint because the Accused has been posted as Deputy Post Master General (Admn) KP and she is afraid that he will resume his harassment of her. Consequently, no adverse presumption can be drawn against the Complainant for her failure to produce documentary evidence in support of her allegations. Be that as it may, it must not be forgotten that the Complainant did produce Mr. Yousaf Afridi as a witness and he corroborated her version. In fact his testimony remained unscathed during cross-examination.

9. Another important feature of the complaint is the text messages sent by the Accused to the Complainant on 14-11-2019. In those messages the Accused informed the Complainant that he had booked a room for her and that she should not disclose this information to the Post Master General. However, what makes this message extremely unusual is that the Accused booked a room for the Complainant even though it has been his clear stand before this forum since day one that he was not the supervisor of the Complainant. If he was not, why then was he concerned about her accommodation. No satisfactory explanation was put forward by the Accused in this regard. Nevertheless, whatever may have been the intention of the Accused in booking a room for the Complainant what is plain is that the Complainant was clearly disturbed by his actions as she raised the matter with Mr. Yousaf Afridi and also before this forum. The definition of harassment as given in Section 2(h)(i) of the Act includes '*any unwelcome... written communication... of a sexual nature.*' Therefore, for conduct to be harassment under the Act it has to be "unwelcome". In deciding which conduct constitutes harassment and which does not, the perspective of the victim is of paramount importance. In its recent judgment the Supreme Court in the case of **Nadia Naz Vs. President of the Islamic Republic of Pakistan, Islamabad** (PLD 2023 SC 588) has held:

“14. ...However, both the President and the Islamabad High Court decided the case of Nadia Naz on the understanding that harassment means sexual harassment having a sexual nature and form and did not examine the facts in the context of Nadia Naz's perspective and her understanding of the injury caused. 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...”

(emphasis supplied)

Consequently, to ascertain whether the conduct of the Accused amounts to harassment the impact of the Accused's behaviour on the Complainant has to be understood. The series of events outlined by the Complainant in her complaint, the strongest proof of which is available in the form of the text messages sent by the Accused on 14-11-2019, clearly show that the Complainant found the conduct of the Accused unwelcome. By reporting it first to Mr. Yousaf Afridi and then to this forum, after the Accused returned to the Postal Office, demonstrates that she wishes the Accused to refrain from his behaviour. Accordingly, the text message of 14-11-2019 falls within the purview of harassment.

10. I am strengthened in my findings by the absence of any possible motive of the Complainant to level a false claim of harassment against the Accused. In his cross-examination the Accused raised the plea that the Complainant and other persons in Peshawar wanted to damage his career because he possessed administrative and financial powers as Deputy Post Master General. However, no proof whatsoever has been provided by the Accused to support his plea. Without evidence therefore his plea is merely an unverified statement which cannot be relied on. It is also a settled principle of law that *'it is a matter of common sense and even a man of prudent mind cannot think that just to defame a person/colleague student, a lady can ruin her modesty/dignity/respect herself by making false complaint of sexual harassment'* [refer **Asif Saleem Vs. Chairman BOG University of Lahore** (PLD 2019 Lah 407) at para 24].

11. Accordingly, in light of what has been discussed I find the Accused guilty of having harassed the Complainant in terms of Section 2(h)(i) of the Act. The minor penalty of censure is therefore imposed on him under Section 4(4)(i)(a) of the Act and he is strictly cautioned from repeating similar behaviour either with the Complainant or any other female employee in the future.

12. The complaint is allowed in the above terms.

FEDERAL OMBUDSPERSON