

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

**FORM OF ORDER SHEET**

**Appeal No. FOH-LHR/00000006/2022**

Serial No. of Order of Proceedings	Date of order of Proceedings	Order of other proceedings with Signature of Federal Ombudsperson	
		TITLE:	MUHAMMAD AFZAL VS BANK OF PUNJAB ETC
		<b>Department: Bank of Punjab (BOP)</b>	
1	2	3	
30	04-08-2023	<p><b><u>Appeal No. FOH-LHR/00000006/2022</u></b></p> <p>Today the case is fixed for order on appeal.</p> <p>Muhammad Afzal (<b>Appellant</b>) had filed an appeal on 30.12.2022 challenging the impugned order dated 17.11.2022 of BOP regarding his termination. However, an application was made for submission of amended memo of appeal which was allowed vide order dated 02.01.2023 and hence the amended appeal was submitted. It has been prayed that the impugned order dated 17.11.2022 be set aside, the charges of sexual harassment against the appellant be dropped and appellant be restored to his position in the interest of justice.</p> <p>The brief facts of the appeal are that the Appellant Muhammad Afzal, through this appeal has challenged his impugned termination order dated 17.11.2022. It was passed after an inquiry on a complaint filed by Respondent No. 4 and Respondent No. 5 regarding the conduct of the Appellant. Respondent No.5 Ms. Sadaf Khalid quoted a specific incident on 09.09.2022, when she was grabbed by the neck and pushed by the appellant while going to her seat.</p> <p>Respondent No. 4 Ms. Madiha Rizwan complained before the Harassment Inquiry Committee of the Bank of Punjab on 12.09.2022 alleging that the appellant tried to harass her and sent her inappropriate emojis like kiss and heart on WhatsApp. In regard to the misconduct with Respondent No. 4, the Appellant also wrote an apology on 16.09.2022 in which he mentioned, "you are my daughter" and "you are like my children etc". The apology was accepted and signed by No.4 Madiha Rizwan.</p> <p>An inquiry was conducted pursuant to the harassment complaint of Respondent No. 4 Madiha Rizwan and Respondent No.5. The committee comprised of 4 members which awarded the minor penalty of withholding</p>	

Increment/performance Bonus for year 2022 in 2023 and recommended that the case of Sadaf Khalid Respondent No.5 should be referred to DAC for further action if any.

The Committee in its findings also observed an indirect contribution by the complainant (Respondent No.4) in the form of messages and emoji sent to the accused (page No.1 Paragraph No.2).

The apology letter as per the records was written to Respondent No. 4. However, in the inquiry proceedings, the apology letter is incorrectly associated with Sadaf Khalid Respondent No.5.

The Appellant alleges that the inquiry has not been conducted by following the correct procedures and rules and that the committee comprising of 4 members is in violation of the Section.3 (2) of Harassment Act 2010. He further alleges vagueness in the terms used in committee report e.g. 'discussion', 'meeting' and 'called' rather than employing the proper procedure of conducting personal hearing, submission of written statements and arguments. No annexures were provided with the inquiry proceedings having either and that the appellant was not given the right of cross examination indicating procedural deficiencies in the proceedings of the inquiry committee. He further states that while the Inquiry Committee had recommended a minor penalty, the competent authority issued a termination letter on 17.11.2022 in sheer disregard of the Committee's recommendations. He further points out that the name and designation of the person who signed the termination letter was not present.

Replies have been submitted by all the respondents wherein they vehemently deny allegations of the Appellant regarding misconduct or procedural gaps in inquiry. Respondents No.1 to 3 allege that the bank has its own harassment policy drafted and implemented according to the provisions of the Protection Against Harassment of Women at the Workplace Act 2010. The Respondents have prayed that the appeal be dismissed with cost.

After review of record and hearing the parties, I have come to the conclusion that the Inquiry Committee comprising four members was not constituted in accordance with the requirements of the Anti-Harassment Act 2010 (amended 2022). There are procedural gaps in the inquiry with regards to denial of the right to cross examination to the Appellant and the Principle of Audi-Alteram Partem that requires no one shall be

condemn unheard has also not been followed. It has been invoked by the Appellant whereby, reliance is placed on “**2021 MLD 537 Islamabad**.”

Further, while the Inquiry Committee had recommended a minor penalty, a termination letter was issued on 17.11.2022 by the competent authority. Moreover, on this letter the name and designation of the person who signed it also not present which is not in line with the precedent of the August Supreme Court of Pakistan, “**2022 SCMR 439**” in which it is clearly mentioned that whenever issuing, motivations, instructions, letters and other communication, it must disclose the designation and the name of the person issuing the same to ensure that it is by one who is legally authorized to do so.

Considering above factors, this Forum has reached the conclusion that the inquiry proceedings before the department have deficiencies and are not in accordance with the requirements of the Anti-Harassment Act 2010 (amended 2022). The decision of the committee is therefore declared deficient and direction is given to the BOP to conduct a De Novo Inquiry within 30 days after receipt of this order under intimation to Registrar FOSPAH.

Meanwhile impugned termination order is set-aside. Appeal allowed in the above terms.

**FEDERAL OMBUDSPERSON**