



**FEDERAL OMBUDSMAN
For Protection against Harassment of Women at Workplace
Islamabad**

TITLE: MUHAMMAD ANEES VS DR. WAQAR-UD-DIN & OTHERS

ORDER

1. Appeal Number: FOH-HQR/0000544/18
2. Date of Institution: 24-10-2018
3. Date of order: 20-09-2019
4. Appellant: Mr. Muhammad Anees
Lower Division Clerk
Pakistan Health Research Council
Islamabad
5. Respondent:
 - i. Dr. Waqar-ud-Din Ahmed
Deputy Director (HSR)
Pakistan Health Research Council
Islamabad
 - ii. Roshan Kumar
Computer Programmer
Pakistan Health Research Council
Islamabad
 - iii. Saima Naz
Research Officer
Pakistan Health Research Council
Islamabad
 - iv. Shahid Mehmood Bashir
Deputy Director (Admn)
Pakistan Health Research Council
Islamabad
 - v. Sumera Abid
Research Officer
Pakistan Health Research Council
Islamabad

**Kashmala Tariq
Federal Ombudsman**

TITLE: Muhammad Anees Vs Dr. Waqar-ud-din & others

It is an appeal filed by the Appellant “Muhammad Anees” against the findings and recommendations of the Inquiry Committee in a complaint filed by the Complainant Ms. Sumera Abid against the present Appellant.

Through the instant order I hereby intend to decide the above mentioned appeal filed by the Appellant before this Forum in complaint mentioned herein above.

Brief facts of the case are that the Complainant/Respondent No. 5 namely Sumaira Abid is a Research Officer at Pakistan Health & Research Council (PHRC) Islamabad, filed a complaint before the Inquiry Committee which was constituted under Section-3 of the Protection against Harassment of Women at Workplace Act, 2010. The contentions of the Complainant/Respondent No.5 were that she has been harassed on receiving whatsapp messages from a number mentioned therein, later on when she came to know that the messages were being sent to her by the Accused “Muhammad Anees” working as LDC in PHRC.

The Inquiry Committee issued show cause/statement of allegations to the Accused and initiate the Inquiry proceedings against the Accused/Appellant and charge sheet were framed. Whereby, the Inquiry Committee recommended to impose major penalty i.e. removal of the appellant/accused from his service which was executed by the competent authority (Executive Director) through order dated 12.10.2018 which is reproduced here as under:

“On the recommendations of the Inquiry Committee constituted under Sub-Section (1) & (2) of Section 3 of Protection against Harassment of Women at the Workplace Act, 2010 and in exercise of powers conferred upon him under Section 5 of the Act, the Executive Director, PHRC being the competent authority in terms of Sub-Section (g)(iii) of Section 2 is pleased to impose the major penalty of “removal from service” under Section 4(4)(ii)(c) of Protection against Harassment of women at the Workplace Act, 2010, upon Mr. Muhammad Anees, LDC presently posted at PHRC Head Office, Islamabad with immediate effect”.

The said recommendations/findings/order of the Inquiry Committee and Competent Authority is challenged by the Appellant through the instant appeal before this forum.

Notices were served, parties appeared, report of the Inquiry Committee was submitted and equal opportunity was given to both the parties.

In the instant appeal the Appellant contended that he has not committed any act of harassment against the Complainant/Respondent No.5. He also stated in the said appeal that no opportunity of cross examination whatsoever has been granted to him by the Inquiry Committee and imposed the major penalty of removal from the service is ultra-vires, which is beyond the law and justice.

On the other hand, Complainant/Respondent No.5 stated that previously, about two years back she was harassed by the present Appellant/Accused through sending SMS and now the Appellant repeated the same act and harassed through the same mean.

At the time of arguments, statements of both the contesting parties were taken into consideration. Annual confidential record of the appellant was also asked to be submitted before the Forum which was submitted as per the directions.

Record were perused, which reveals that Inquiry Committee was constituted as per law which was consisting of three members a chairman namely Dr. Waqar Ud Din Ahamd, one male member namely Roshan Kumar and one female member namely Ms. Saima Naz. The charge sheet & Statement of allegation was issued to the appellant/accused on 21st June, 2018. On 26th June, 2018 the appellant/accused submitted his written reply wherein, he stated that he had mistakenly sent SMS to the complainant/respondent No.5 but when he came to know that he had sent SMS to a wrong person, he regret and also apologized to respondent for his unintentional act. According to the inquiry report, examination in chief was recorded of both the parties i.e. Appellant/accused and respondent No. 5 and the accused was cross-examined by inquiry committee. Whereas, the number from which the messages were being sent to the complainant has been admittedly owned by the appellant/accused.

The available record on file pertaining the intention of the Appellant and there is no clear immoral and unethical contents in the said/alleged messages but the hidden intention of the Appellant/Accused being established that he had tried to get close to the Complainant/Respondent no.5 due to which the Complainant was harassed and hostile and offensive environment was created for her.

According to the definition of Harassment, there is a clause which is reproduce here as;

“Harassment means an unwelcome sexual advance, request for sexual favor or other verbal or written communication or physical conduct of sexual nature or sexually demeaning attitude, 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.”

Here in the case in hand, the appellant has admittedly sent the SMS to the complainant. The complainant stated that the alleged SMS generated from the accused created hostile environment for the complainant and also caused mental/ psychological torture to the Complainant. This fact was also admitted by the Accused before the Inquiry Committee as well as before this forum. Hence the order of the Inquiry Committee for the removal of accused from service is hereby upheld and instant appeal is hereby dismissed accordingly.

No order as to cost.

**KASHMALA TARIQ
Federal Ombudsman**