

OFFICE OF THE OMBUDSMAN

Islamabad

FORM OF ORDER SHEET

Complaint No. FOH-HQR/0000211/20

Serial No. of Order of Proceedings	Date of order of Proceedings	Order of other proceedings with Signature of Federal Ombudsman
		TITLE: MS. MUMTAZ GULL VS MR. GHULAM ALI, REGIONAL DIRECTOR
		Department: (Human Rights, KPK)
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	23-06-2021	<p>Complaint No. <u>FOH-HQR/0000211/2020</u></p> <p>Ms. Mumtaz Gull (Complainant) is an overseas Pakistani settled at Birmingham UK. As per her own version she visited the Regional Directorate of Human Rights situated in Hayatabad Peshawar in November, 2020 and met with Mr. Ghulam Ali, Regional Director Human Rights KP in connection with filing a complaint against her husband. First the said person assured her of his help with regard to her complaint but soon he started some unusual talk with her. When he came to know that she is resident of Rawalpindi he tried to be frank with her stating that he would soon be posted in Rawalpindi/Islamabad where he could have dinner each night if she so allowed. She refused as her intention was only to file a complaint in his office and not to establish any relationship with him. During their conversation he started discussing sex and sexual harassment with her. She got worried due to discussion and irrelevant behavior. He, thereafter, expressed his desire to have sex with her which she refused and quickly ran out of his office.</p> <p>A complaint to the above effect was filed to the Secretary Ministry of Human Rights Islamabad with prayer to take strict disciplinary action against the accused Mr. Ghulam Ali for causing sexual harassment and misbehavior. The complaint was then sent to DG Law Human Rights, Government of KPK for taking necessary action in the matter. It was, thereafter, came to this forum for disposal.</p> <p>Having been registered the complaint at this forum, accused was issued notices. Mr. Ghulam Ali appeared and submitted his written defense, out rightly, rejecting the allegations of the Complainant. He</p>

gave minute details of his meeting with the Complainant in his office at Peshawar. During the proceedings, the Complainant Mumtaz Gull filed affidavit in evidence. She was cross examined by the learned counsel for the accused. Accused Ghulam Ali also recorded his statement affirming his version made in his written defense.

Since the Complainant requested for prompt disposal of the case due to her intending journey abroad, it was taken without any delay. It may be relevant to mention here that there are two types of cases which are adjudicated upon the courts. Civil suits are filed in civil courts while criminal cases are entertained by criminal courts. In the cases of civil nature it is a duty of a plaintiff to establish his/her case at its own merits without taking benefit of any weakness in the opponent's case. It means the plaintiff has to stand on his/her own legs. Similarly in the criminal cases, it is a bounden duty of the prosecution to prove its case against the accused person beyond any shadow of doubt and if there exists the slightest of doubt in the prosecution case, its benefit goes to the accused. Accused in the common parlance is regarded as a favorite child of law.

The above mentioned principles have been accepted and being followed worldwide. To judge the present complaint on the above criteria the Complainant Ms. Mumtaz Gull appears to have failed to establish her case against the accused beyond reasonable doubt. On the other hand the story and charge of the Complainant looks replete with grave doubts. It is not clear on the part of the Complainant as to against which of her husbands she approached the human rights office and what were her grievances. Admittedly the Complainant was divorced by her first husband and she contracted second marriage. She has been failed to produce important witness namely Ms. Shehnaz. The justification for not producing the said witness in this forum as a witness is not confidence inspiring. A woman who could go to the office of the accused, could have also appeared in this forum for testimony. Non production of such an important witness by the Complainant, would certainly go against her and it would be presumed that Ms. Shehnaz was/is not supporting the cause of the Complainant. The Complainant has also been unable to produce any other witness of the alleged incident, whereas, it has come in her evidence that police officials and court staff was available on the venue.

It further makes the matter doubtful because the Complainant has admitted the suggestion that she has lodged the complaint against the accused at the behest of one Muhammad Asghar who is inimical towards him. The allegation of the Complainant regarding testimonials of the accused also seems not bonafide. The other allegation regarding giving precious gifts by the accused to his friends would suggest as if these things were put in the mouth of the Complainant by someone else i.e. Muhammad Asghar etc.

Admittedly the Complainant is neither the employee of the organization where the accused works nor the accused is her employer. So this forum is handicapped to provide her any remedy under the law. It is well settled law that courts are not empowered to provide a remedy to a person, under a law, if none was provided by the legislature.

In short, firstly the Complainant has been unable to prove her case against the accused to the hilt as she has failed to produce cogent, credible and confidence inspiring evidence to bring home charge to the accused and secondly she may not be provided any remedy under the law i.e. Protection against Harassment of Women at the Workplace Act 2010. So in these circumstances one would be compelled to extend benefit of doubt to the accused and not to entertain the complaint being outside the domain of the forum. Consequently, the present complaint against the accused is hereby declined.

OMBUDSMAN