



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

J U D G M E N T

1. Complaint Number: FOH-HQR/0000522/18
2. Date of Institution: 24-09-2018
3. Date of Decision: 23-05-2019
4. Complainant: Ms. Samina Bibi,
Mohalla Shadi Khel
Halqa NA095, Near Petrol Pump
Kamar Mushani, Tehsil Esa Khail,
District Mianwali.
5. Opponent: Mr. Faisal Malik
AEO
Through
Markaz Kamar Mushani No.05
Tehsil Esa Khail
District Mianwali.

Ms. Umaira Aleem
Dy. DEO
Chief Executive officer (CEO)
Education Department
District Mianwali

KASHMALA TARIQ
Federal Ombudsman

TITLE: Ms. Samina Bibi. Vs. Faisal Malik & Others

By virtue of this order this forum decide upon the present complaint pending adjudication under the provisions of The Protection against Harassment of Women at Workplace Act 2010, presented by Samina Bibi Ex head mistress Government Girl High School Kutki City Isa Khel, Mianwali hereinafter referred to as “Complainant” against Fasil Malik Assistant Education Officer hereinafter referred to as “Opponent No 1” and Umera Aleem Deputy Education Officer hereinafter referred to as “Opponent No 2” Isa Khel, Mianwali

The facts giving rise to this complaint are to that the Complainant was appointed as head teacher Government girls Primary school Kutki city, Kammar Mushani No 5 Tehsil Isa Khel District Mianwali dated 31-08-2014. Complainant alleged that Opponent No 1&2 have grudge against the complainant, that the opponent threatening and harassing the complainant repeatedly, Opponent No 1 was made false and fabricated allegations against the complainant, That opponent No 1 used his illegal and unlawful authority; Complainant filed the complaint for the terrorist activities of the opponents. That Opponents involved illegal appointments. That the Opponent No 1 insists the students to file a complaint against the complainant. That Opponent No 1 again and again submits illegal orders, that Opponent no 1 use his illegal authority and stoppage her salary, that opponent no 1 again and again terrorist attack to the Complainant, Opponent no 1 snatched register, they used filthy language and abuses. That the Opponent No 1 harassed her and threats the complainant for the dire consequence. Complainant field several complaint in different forums but never heard by any forums in this regards.

On the other hand Opponent No 1 submitted his reply and denied all the allegations leveled against him. Opponent No 1 stated that he is serving his department with due diligence, honesty and with dedication and never allowed any unfair practice from any person during his course of duty. That the Complainant has under coursed that the complainant has not used the proper course of law as define in PROTECTION

AGAINST HARASSMENT OF WOMAN AT WORKPLACE ACT 2010. Hence the complaint is liable to be dismissed. The complaint of the complainant is false, frivolous, and vexatious. That the complainant starts blackmailing campaign.

According to the Opponent No 1 that on 20-11-2017 Opponent No 1 visit the school for inspection of the school and Complainant absent from the school, Complainant leave the office before the school hours, school wash rooms was locked. Opponent called the Complainant but she did not attend the call. Again On 25-11-2017 Opponent No 1 visited the school Complainant did not comply the earliest order of the authority. That on 25-11-2017 Opponent No 2 orders to remove the Complainant as headship of the school and gave charge of the headship to the Misbha Gull but Complainant refused to comply the order of competent authority and not to give charge of the headship. Opponent stated that he didn't snatch the register from the Complainant. He further contended that he didn't threaten the Complainant of dire consequences. That on 02-12-2017 the Complainant moved an application to Deputy District Education Officer against Opponent No 1. In this application Complainant alleged same allegations. Opponent No 1 specifically denied all the allegations and charges leveled against him by submitting his written reply. He explained his version that he is innocent and had been charged with malafide intention. The complaint of the Complainant is false, frivolous and black male the Opponents.

On the other hand Opponent No 2 submitted her arguments and replies and denied all the allegations leveled against him. Opponent no 1 submitted the report that Complainant locked the school and did not allow the Opponent no 1 Assistant Education Officer Kmmar Mushani No 5 to enter the school for his official visit. On 18-01-2018 Opponent no 1 (AEO) surrendered Complainant services on account of non- cooperation, negligence, misconduct, inefficiency and corporal punishment. Complainant was obstinate person, being head teacher she was responsible for all sort of official correspondence, but she delay every assignment, and due to non-compliance the orders of the seniors. The District Education Officer Mianwali issued a show cause notice dated 17-02-2018 after proceeding under show caused notice Complainant services were terminated vide DEO(W-EE) Mianwali dated 29-08-2018. This complainant field after the termination of her services hence, the compliant is dismissed on merit.

Arguments were heard and record perused available and inquiries reports were submitted firstly on Deputy Education Officer on 25-11-2017 secondly Fozia Waqar Punjab Commission of woman status on 28-06-2018 thirdly Chief Executive Officer Mianwali and final Deputy Commissioner Mianwali The Complainant concealed the facts and the decision of inquiries.

The facts and circumstances of the instant complaint are exceptional in nature. An assessment of the record that the main grievance of the Complainant is administrative in nature spreading throughout the course of her career, rather than any specific incidents of sexual harassment. Representation before President's secretariat which is appellate authority of this forum has restricted the jurisdiction of this forum pertaining to sexual to sexual harassment only. Complainant contract was terminated before the filing of the complaint. It is well stalled principal of law that the law cannot be applied retrospective unless it is specifically provided. More important, the principal of laches is also applicable in the present complaint, as the maxim of equity goes by 'equity aids the vigilant and not those who slumber on their rights.

Similarly, reliance is placed upon 2018 MLD 327 Syed Mazher Hussain & others Vs President Islamic Republic Of Pakistan & Others" where in it was emaciated by the honorable Islamabad High Court that the Act of 2010 does not provide any remedy to the ex-employees. That the complainant have already availed remedies before the different forums. She admitted on number of occasions that no sexual harassment has been committed by the Opponent. On the basis of strict principles of law of evidence incorporated in Qanun-e-Shahadat Ordinance, 1984the Complainant's side of story is weak, misty and doubtful due to lack of evidence therefore she failed to prove her case. Moreover, the Inquires reports were submitted before this forum. The Complainant premeditated this complaint and this complaint is based on some ulterior motive just to malign the Opponents. Hence, the findings of the Federal Ombudsman are based on admitted facts and law. The complaint does not fall within the ambit of **Section 2(h) of The Protection against Harassment of Woman at Workplace 2010.**

Section 10 of the Federal Ombudsman Institutional Reforms Act 2013 states that

ombudsman receipt of written defense of the show cause notice, the ombudsman shall formulate conclusions to reach some recommendations and finding.

In the light of above discussion, the present complaint is dismissed accordingly.

OMBUDSMAN