

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

FORM OF ORDER SHEET  
Complaint No. FOH-ONL/0000008/2020

**Date of Institution: 20-01-2020**

Serial No. of Order of Proceedings	Date of order of Proceedings	Order of other proceedings with Signature of Federal Ombudsperson
		<b>TITLE: SIDRA KARIM AWAN VS HAJI ADAM &amp; OTHERS</b> <b>Ex-Employee Director General</b>
		<b>Department: Pakistan Electronic Media and Regulatory Authority (PEMRA)</b>
1	2	3
<b>31</b>	<b>08-11-2023</b>	<p><b>Subject: <u>Order on Submission of Second Affidavit in Evidence by the Complainant</u></b></p> <p>1. The present controversy revolves around the second affidavit in evidence filed by Sidra Karim Awan (<b>Complainant</b>) against Fakhar Ud Din Mughal (<b>Accused</b>). To decide this issue, the following extracts from the order of the Honourable President of Pakistan dated 16-09-2023 are relevant:</p> <p>“10. The perusal of the record shows that the Complainant had filed a harassment complaint against two accused namely Haji Adam and Fakhar Ud Din Mughal. The learned Ombudsman after conclusion of inquiry proceedings had imposed the major penalty of dismissal from service along with fine of Rs.2,000,000/- upon the accused Haji Adam. The accused Fakhar Ud Din Mughal was proceeded against ex-parte and major penalty of reduction to lower post with fine of Rs.500,000/- was imposed upon him vide order dated 04.11.2021.</p> <p>11. The accused Fakhar Ud Din Mughal assailed the said order by filing a representation to the President whereby representation was accepted and the matter was remanded to the learned Ombudsman with the direction to afford one opportunity to the accused and decide the matter afresh within a period of sixty days.</p> <p>12. Upon remand of the matter, the learned Ombudsman had initiated the process of summoning the accused as well as the complainant by issuing notices to them. On 15.12.2022, Mr. Rashid Hafeez, Advocate had submitted memo of appearance on behalf of the accused and had requested for an adjournment to submit power of attorney which was allowed and the matter was adjourned to 19.12.2022, power of attorney was submitted by Omair Ahmed Zahoor, Advocate with the request of adjournment to file reply which was allowed and the case was adjourned to 27.12.2022. Thereafter, by availing two more opportunities, the accused filed written reply. The learned Ombudsman subsequently proceeded to record evidence whereby the</p>

complainant produced her affidavit in examination in chief and the matter was adjourned for her cross examination. The accused availed numerous opportunities for cross examination of the complainant and on 25.05.2023, the learned Ombudsman had granted final opportunity to the accused for cross examination and the matter was adjourned to 08.06.2023. On 08.06.2023, the accused furnished fresh power of attorney by Ahmed Junaid, Advocate and requested for an adjournment. On next date, the cross examination was not conducted by the accused and thus the learned Ombudsman passed the impugned order to withhold pension of the accused till final disposal of the matter.

...

16. In view of the above, the instant representation is without substance and devoid of merits and no interference is warranted with the impugned order.”

2. It becomes clear from the afore-noted passages that initially the Accused was proceeded against ex-parte and therefore the penalty against him was set aside by the Honorable President of Pakistan for decision afresh by this forum. However, the Accused failed to cross examine the Complainant despite being given multiple opportunities. Ultimately his pension was withheld by this forum. Feeling aggrieved the Accused filed a representation before the Honorable President of Pakistan but the same was dismissed vide the above-mentioned order of the President dated 16-09-2023 and the case was returned to this forum for final adjudication. On 10-10-2023 the learned counsel for the Accused for the first time raised an objection on the fresh affidavit in evidence filed by the Complainant on the ground that she had already submitted her affidavit during the previous proceedings against co-accused Haji Adam and as such she could not be allowed to file a new and second affidavit.

3. On the other hand, the learned counsel for the Complainant contended that the previous affidavit was in the case against co-accused Haji Adam in which the present Accused had been placed ex-parte. That since de-novo proceedings had been started against the Accused, fresh affidavit in evidence could be legally submitted by the Complainant and this act was in consonance with the provisions of the Protection Against Harassment of Women at the Workplace Act, 2010 (**Act**).

4. I have heard learned counsel for both the parties in this regard and have also examined the record. I have further perused the observations of the Honorable President of Pakistan recorded in his order dated 16-09-2023 which clarifies the present controversy

between the parties. It has been held in the order dated 16-09-2023 that:

“12. ...The learned Ombudsman subsequently proceeded to record evidence whereby the Complainant produced her affidavit in evidence in chief and the matter was adjourned for her cross examination. The Accused availed numerous opportunities for cross examination of the Complainant and on 25-05-2023, the learned Ombudsman had granted final opportunity to the Accused for cross examination and the matter was adjourned to 08-06-2023. On 08-06-2023 the Accused furnish fresh power of attorney by Ahmed Junaid, Advocate and requested for adjournment. On next date the cross examination was not conducted by the Accused and thus learned Ombudsman passed the impugned order to hold pension of the Accused till final disposal of the matter.”  
*(emphasis supplied)*

5. It is quite clear from the above observations of the Honorable President of Pakistan that the fresh affidavit in evidence of the Complainant was in the knowledge of the Accused during the representation proceedings. In fact, it is on record that the Accused became aware of the subject affidavit on 28-03-2023 when it was first furnished by the Complainant. But no challenge was raised to it by the Accused at that time before this forum or before the Honorable President of Pakistan in representation. If the Accused had any objection to the fresh affidavit filed by the Complainant he should have brought it up at an earlier stage. However, instead of adopting that course of action the Accused kept on delaying the Complainant's cross examination and only on 10-10-2023 i.e., about seven months after the submission of the subject affidavit, did he reveal his cavil to the same. Keeping in view the past history of the case one cannot rule out the possibility that the Accused is merely trying to delay the disposal of the case by raising this objection belatedly so that the agony of the Complainant continues. It may also be relevant to mention here that under Section 8(3) of the Act the Ombudsperson has been empowered to conduct proceedings as she deems proper. Since the matter has been remanded back to this forum by the Honorable President of Pakistan to the extent of the Accused for decision afresh, I am of the view that the subject affidavit is admissible because it details the Complainant's allegations against the Accused and so is relevant evidence for deciding the instant complaint.

		<p>6. In light of the facts discussed above, I find the objection raised by the Accused on the affidavit in question to be unwarranted and uncalled for. The objection lacks bona fides and is therefore overruled. Since the case has been lingering on for a long time the Accused is directed to complete the cross examination of the Complainant on <b>20-11-2023</b> positively, failing which his right of cross examination shall be closed.</p>
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**FEDERAL OMBUDSPERSON**