

**BEFORE HONORABLE MS. KASHMALA TARIQ, FEDERAL
OMBUDSMAN FOR PROTECTION AGAINST HARASSMENT OF
WOMEN AT THE WORKPLACE, ISLAMABAD**

Ms. Sidra Karim Awan

....Complainant

Versus

Haji Adam & others

....Accused

Complaint No. FOH-ONL/00000008/19

Order

04-11-2021

After passing through the different phases this case, at last, has reached the final stage of adjudication by this forum. So many factors contributed to delay the disposal of the matter, but the important amongst them were the repeated representations filed by the accused before the honourable President of Pakistan against the orders of this forum and the several writ petitions filed before the honourable Islamabad High Court Islamabad challenging the jurisdiction of this forum. If analysed, fairly, the responsibility of such delay heavily lies upon the accused because he kept on moving the case file from one forum to the other.

2. Now that when the case has attained the maturity after sufficient time, without having been adversely affected who delayed the case and who did not, it is taken for decision on its merits in the light of available evidence on the file.
3. To begin with, Sidra Karim Awan (**herein after called the Complainant**), filed online complaint before this forum on 20-01-2020. In her complaint she highlighted the main points of her grievances to the effect that she was working at PEMRA headquarter Islamabad on the post of RTO on contingent basis where she was being harassed by her Director General Admin & HR (**herein after called the Accused No. 1**). That after her refused (the demand of sexual favour of the Accused No. 1), the Accused No. 1 behaviour towards her turned rude, disgusting and demeaning. Along with this brief complaint, the Complainant attached the copy

of her complaint which she had already sent to Chairman PEMRA. In the complaint to the Chairman PEMRA, the Complainant alleged that she was harassed by Accused No. 1 from the day one who would always pass derogatory and below the belt remarks against her. He was threatening her to face the dire consequences including termination of her job if she did not comply with his unnecessary demands. The Complainant requested the Chairman to look into the matter to help her out.

4. Few days later the Complainant filed the formal complaint at this forum against Accused No. 1, Fakharuddin Mughal (**herein after called the Accused No. 2**), Chairman PEMRA (**herein after called the Accused No. 3**) and Sardar Irfan Ashraf Khan (**hereinafter called the Accused No. 4**). The formal complaint was registered at this forum on 30-01-2020. In this complaint the Complainant narrated comprehensive details of her harassment at the hands of the Accused No. 1. She submitted that the Complainant joined PEMRA w.e.f 22-07-2019 to 18-10-2019 vide office memorandum dated 17th July, 2019 on contingent/contractual basis as "receptionist/telephone operator" where she worked with immaculate reputation. That hailing from very humble background the Complainant worked hard to avail opportunities for better career. She remained punctual and hardworking and had never been charge sheeted on any disciplinary grounds during the entire period of her contract. That Accused No. 1 since very inception of her job kept on harassing her passing filthy gestures due to which she would remain apprehended and uncomfortable at her workplace. That on 11-11-2019 Accused No. 1 called the Complainant to the room of Accused No. 2 and in presence of Accused No. 2 started very vulgar conversation with her putting forward his nude demands and threatening her to the dire consequences in terms of non-renewal of her contract (urdu version of the conversation between the Complainant and Accused No. 1 has been given by the Complainant in her complaint).
5. That after this conversation she got offended and went home. That she disclosed this incident to Mr. Ashfaq Jummani, Executive Member of PEMRA in presence of Sajjad Ahmed, General Manager PEMRA. They forbade her from filing any complaint against the Accused No. 1 on the ground that this would bring bad name to the organization. It was told to her by the above mentioned persons that they would make Accused No. 1 understand not to harass her in future but Accused No. 1 kept on continuously harassing her. That Complainant contacted

some of her colleagues and seniors but they did not pay heed to it and hence finally on 10-01-2020 she lodged the complaint about the said incident to the Accused No. 3. That in response to the said complaint, inquiry committee was constituted vide office order dated 16-01-2020 without dissolving the earlier constituted inquiry committee. That since a new inquiry committee constituted by Accused No. 3 was formed in sheer violation of the provisions of section 3 of the Act 2020, the Complainant raised objection on this constitution and showed her distrust on the same vide her notice dated 20-01-2020.

6. At the end it was prayed by the Complainant that in view of her assertions, stern action be taken against the accused in terms of the provisions of Protection against Harassment of Women at the Workplace Act 2010.
7. Having been registered and entertained the said complaint at this forum notices were sent to the accused for appearance and reply.
8. Accused No. 1 submitted his written defense through his counsel Mr. Zulfiqar Khalid Maluka, advocate. Mr. Hafiz Arafat Ahmed, advocate also submitted written defense on behalf of PEMRA. Since Accused No. 2 was on Ex-Pakistan leave for five years he did not attend the proceedings, however he was served upon notice through the required process. He had knowledge of the proceedings but neither appeared in person nor through any attorney or representative. Accused No. 2 is, thus, proceeded against ex-parte in terms of section 8(2) of the Act 2010.
9. The principal Accused in the case namely Haji Adam in his written defense raised several objections both technical and factual and prayed for dismissal of the complaint which according to him was stitched up and filed on behest of other vested interest.
10. After furnishing defense statement and rejoinder etc by the parties, the case was fixed for evidence of the Complainant.
11. Complainant submitted her affidavit in evidence consisting of six pages, containing English as well as urdu version. On behalf of Complainant Sajjad Mehmood, General Manager PEMRA Islamabad also filed affidavit in evidence. Statement of

the Complainant was recorded as PW-1 while statement of Sajjad Ahmed was recorded as PW-2. Similarly statement of Saeed Soomro, Dr. Mukhtar Ahmed and Shakir Khanzae were recorded as CW-1, CW-2 & CW-3 respectively.

12. After recording the above mentioned statements and evidence of Accused No. 1 was recorded as DW-1. Statement of Accused witnesses namely Nadir Khan, Jehanzaib Khanzada and Adeel Imtiaz were recorded as DW-2, DW-3 & DW-4 respectively.
13. Learned counsel for both the parties availed the opportunity of cross examining each other's witnesses in detail as they wished. The parties were provided with ample opportunity so as to dispel any impression from either side that he or she was not given the chance of proper hearing i.e. cross examining the opposite side witnesses.
14. Complainant while recording her evidence reiterated her stance given in the affidavit in evidence exhibit PW 1/1 to the effect that from the very inception of her job, Accused No. 1 kept on harassing her misusing her position of DG Admin & HR and finally on 11-11-2019 he called her to the office of Accused No. 2 and put forwarded his nude demands threatening her of dire consequences in terms of non-renewal of contract. The Complainant made urdu version of her complaint as part of her affidavit in evidence. She almost repeated her version which she made in her formal complaint dated 30-01-2020.
15. As mentioned earlier the Complainant was subjected to lengthy cross examination by the learned counsel for the Accused No.1. The entire cross examination of the Complainant cannot be reproduced here, however, its relevant and important aspects would be referred to. Under cross examination the Complainant deposed that during her first tenure of three months at PEMRA she did not make any complaint either against the present accused or someone else. She admitted that she was not employee of PEMRA at the time she filed complaint at this forum on 20-01-2020. She deposed that she filed first complaint against the Accused No. 1 to Accused No. 3 on 10-01-2020. The Complainant deposed that her first complaint to the Chairman PEMRA was only against Accused No. 1 and that in her first complaint at this forum she also made Fakharuddin Mughal as an Accused.

Regarding her online complaint and formal complaint the Complainant deposed that first complaint was brief while the second one was in detail. The Complainant categorically denied the suggestion that her complaint at this forum was with ulterior motive of blackmailing the Accused No. 1 to strengthen the hands of other people and to gain some benefits out of it. She denied the suggestion that on 10-01-2020 she went to the office of Accused No. 1 and also took there chocolate for the Accused No. 1 who was intending to perform Umrah. On the contrary the Complainant deposed that on 10-01-2020 she went to the office of Chairman as well as Executive member in connection with filing her complaint against accused. The Complainant also denied the suggestion that rival group of the Accused No. 1 paid her huge amount for lodging complaint against the Accused No. 1 and also promised her a job. The Complainant deposed that on 11-11-2019 accused No. 1 & 2 at about 4:30 pm asked her verbally to come to the office of Accused No. 2 after the Accused No. 3 had left the office. Further deposed that initially she kept ignoring the behaviour of the Accused No. 1 until the incident occurred on 11-11-2019. She admitted that on her first complaint to the Accused No. 3 the committee was constituted and she was issued a notice but she raised objection on the constitution of that committee. The Complainant denied the suggestion that she sent a message to Javed Iqbal to the effect if Accused No. 1 gave her 35 lacs she would withdraw her case. She also denied the suggestion of the learned counsel for the Accused No. 1 that Accused No. 1 was a fair and honest officer always showing respect to his staff. The Complainant volunteered that although she charged three persons in her complaint for harassment but now she would charge only one person and that is Accused No. 1. The Complainant refuted the suggestion that she called Accused No. 1 on whatsapp when he was in Saudia Arabia.

16. Mr. Sajjad Ahmed, General Manager PEMRA recorded his statement as PW 2. He stated that he was present in the office of Mr. Ashfaq Jumani, Executive Member PEMRA, the day the Complainant approached Mr. Ashfaq Jumani, Executive Member regarding sexual harassment committed by Accused No. 1. Further stated that he was witness to the whole conversation which took place between Mr. Ashfaq Jumani, Executive Member and the Complainant whereby she narrated the contents of the complaint as mentioned in the body of the Complainant. That the Complainant was crying and conveying to Mr. Ashfaq Jumani, Executive Member the incident of sexual harassment by the Accused No. 1 and Accused No. 2. That

she requested Mr. Ashfaq Jumani, Executive Member for help and assistance. The witness further stated that the Complainant was persistent that the Accused No. 1 made nude and annoying remarks exploiting his official position on the date of incident dated 11-11-2019. That Ashfaq Jummani, Executive Member forbade the complainant to file any complaint against the offenders and assured the Complainant that he (Executive member) would try his level best to resolve the matter amicably.

17. In cross examination the witness admitted that his affidavit was not on stamp paper and more so it was not attested by any oath commissioner. On a question by the learned counsel for the Accused No. 1, the witness made it clear that he had not come to record his evidence at the instance of anybody but since he knew about the instant matter he came to record his statement. He further admitted that the incident mentioned in the complaint was not seen by him. He further deposed that when the Complainant came to the office of Mr. Ashfaq Jummani, Executive Member to narrate the incident, he was present there. According to the witness his affidavit exhibit PW 2/1 was in support of the narration of the Complainant which he heard in PEMRA office from the mouth of the Complainant. The witness denied the suggestion that he had come to record his statement against Accused No. 1 as a result of his connivance with Mr. Ashfaq Jummani, Executive Member. The witness expressed his ignorance about any inquiry to be conducted by Accused No. 1 against him.
18. On his turn Accused No. 1 recorded his statement as DW 1 in support of his affidavit in evidence exhibit DW 1/1. His affidavit consisted of five pages accompanied by the documents No. 2 to 22. Accused No. 1 also produced affidavit in evidence of three witnesses namely Nadir Khan, Jehanzaib Khanzada and Adeel Imtiaz, besides producing four DVDs NO. 23, 24, 25 and 26. According to the Accused No. 1 the complaint against him was false and frivolous which was based on malafide and ulterior motive and hence liable to dismissal.
19. Accused No. 1 was subjected to lengthy cross examination by the learned counsel for the Complainant. The material depositions of the Accused No. 1 were to the effect that Accused No. 3 did not come to record evidence in his favour because he was not cited by him as a witness, that he duly mentioned in his written defense and affidavit that Accused No. 2 was not present in his office the whole day on

11-11-2019 and that the entire day Accused No. 2 remained in the office of Mr. Hafiz S.A Rehman, advocate. Further admitted that Accused No. 2 did not appear at this forum in his defense either in person or through any representative. That the affidavit produced by him on behalf of Accused No. 2 had not been attested by any embassy, high commission or foreign office. That Accused No. 2 never appeared at this forum to corroborate or otherwise of the said affidavit. Further admitted that he (Accused No. 1) did not summon Mr. Hafiz S.A Rehman, advocate in support of the above version. Accused admitted the authenticity of biometric data of his office of the month of November, 2019 which was exhibit DW 1/ x-4. He also admitted the record of biometric attendance of Accused No. 2 of the month of November, 2019 particularly dated 11-11-2019 showing the entry of Accused No. 2 in PEMRA office at 8:58 am (exhibit DW 1/x5). Accused No. 1 admitted that as per record of the official vehicles Accused No. 2 entered on 11-11-2019 by official vehicle No. GAF-037 at 8:54 am and left office at 5:30 pm in the same vehicle. Also admitted, as per record vehicle No. GAF-037 did not leave anywhere else on 11-11-2019. Accused No. 1 finally admitted that on 11-11-2019 Accused No. 2 remained present in his office throughout and did not go anywhere else (exhibit DW 1/x6). Accused No. 1 further deposed that the Complainant never appeared against him in any case between him and Ashfaq Jummani, Executive Member. He also admitted that the Complainant had nothing to do with the administrative issues/conflicts of PEMRA. Accused admitted that the Complainant had raised objections on the constitution of the special committee by sending legal notice on 20-01-2020 and thereafter she approached this forum with the instant complaint.

20. According to the Accused No. 1 he made mention of the fact in his defense statement that he received multiple complaints against Complainant but he did not produce any record in this respect as the complaints were verbal and similarly he did not issue any warning or displeasure to the Complainant regarding such complaints. He deposed that he had signed the performance evaluation report of the Complainant dated 03-09-2019 in which she had not shown punctual and her performance remained unsatisfactory. Accused No. 1 admitted that he shared videos of dancing girls and horses with Complainant. Accused No. 1 admitted that he sent letter dated 14-06-2021 exhibit DW 1/x20 to the Complainant, application dated 28-06-2021 exhibit DW 1/x21 to IG Police Islamabad and application exhibit DW 1/x22 to DG (FIA) Cyber Crime Wing, Islamabad.

21. Mr. Nadir Khan, Deputy General Manager was examined as DW 2 in connection with his affidavit in evidence exhibit DW 2/1. He admitted that he had worked under the direct sub ordination of Accused No. 1 and that the contents of his affidavit were identical to the affidavit of Mr. Jehanzaib Khanzada.
22. Mr. Jehanzaib Khanzada, Deputy General Manager PEMRA appeared as DW 3 and recorded his statement with regard to his affidavit exhibit DW 3/1. He also admitted to have been under the subordination of Accused No. 1 at the time of incident. He also admitted that the contents of his affidavit were almost identical to the contents of affidavit of Mr. Nadir Khan.
23. Mr. Adeel Imtiaz, DFA PEMRA recorded his statement as DW 4 in connection with affidavit exhibit DW 4/1 on the file. He admitted that he had altercation with Complainant on 08-01-2020. Further admitted that he was dragged from that place by his colleague to advise him not to make any altercation. Further admitted that he had been following the Complainant in CCTV footage on camera at the instructions of Accused No. 1 but he did not bring it to the notice of the Accused No. 3 that he was asked by Accused No. 1 to follow the Complainant.
24. After recording the evidence discussed above, three witnesses were called as court witnesses at the instance of the Complainant. They were Mr. Saeed Soomro CW-1, Dr. Mukhtar Ahmed, CW-2 and Mr. Shakir Khanzae, CW-3.
25. According to Mr. Saeed Soomro, Deputy General Manager/ Staff officer to the Accused No. 3 he was sitting in his office when Complainant there. She was visibly disturbed and when he asked her the reason for such disturbance she told that yesterday she was sitting in the office of Accused No. 2 where she was told by the said person to be physical with them, otherwise they would terminate her from service. He (CW-1) advised her to bring this matter into the notice of Accused No. 3 because it was a serious thing. Initially she was a little bit reluctant but thereafter she filed a formal complaint against the Accused No. 1. The Chairman directed him (CW-1) to ask Complainant to meet him and the Complainant met with Chairman in his presence where she narrated the entire episode to the Chairman. The Chairman tried his level best to console and encourage the Complainant telling her to keep the Complainant in service which

was his prerogative and power. When subjected to cross examination by the learned counsel for the Complainant the witness deposed that the Complainant was bearing good character. Further deposed that once Sidra was sitting in his office when Accused No. 1 came there and shouted at her as to why she was sitting in his office. Further added that he did not receive any complaint against Complainant Sidra regarding her performance in the office.

26. During the cross examination by the learned counsel for the accused CW-1 deposed that he had seen himself the Accused No. 1, Accused No. 2 and Complainant sitting in the room on the relevant day. The witness denied the suggestion that he was recording evidence against Accused No. 1 at the behest of his rival DGs.
27. Dr. Mukhtar Ahmed, currently DG PEMRA recorded his statement as CW-2 stating that he did not know much about the case and got knowledge of the instant matter after the formal complaint was lodged by Complainant. He was told by Saeed Soomro regarding the incident. He was member of the committee which was constituted for probe into the matter but that committee could not function due to the complaint at this forum. He deposed that the initial committee consisted of three members while the subsequent committee consisted of seven members. Witness admitted that he was issued explanation and show cause notice by Accused No. 1 vide exhibit CW 2/D1 and exhibit CW 2/D2. He further admitted to have filed the damages suit with co-plaintiffs Sardar Irfan Ashraf Khan and Muhamamd Tahir at District Court, Islamabad against the Accused No. 1.
28. Mr. Shakir Khan Zae recorded his statement as CW-3 submitting that he got knowledge of the present incident two or three days after the occurrence and that Complainant informed him of the same on intercom. Under cross examination he admitted that he was not eye witness of the present incident.
29. Above is the gist of evidence adduced by both the parties.
30. I heard the detail arguments of the learned counsel for the parties and perused the record with their able assistance.

31. First of all, I would like to take, discuss and settle the issue of maintainability of the complaint at this forum.
32. The relevant Act i.e. Protection against Harassment of Women at the Workplace Act 2010 has been invoked by Complainant for redressal of her grievances. **Under section 2(e) of the Act**

Complainant has been defined as the woman or man who has made a complaint to the Ombudsman or to the inquiry committee on being aggrieved by the act of harassment.

Employee has been defined as a regular or contractual employee whether employed on daily, weekly, monthly or hourly basis and includes intern or an apprentice.

Employer has been defined to be an organization or any person or body of persons whether incorporated or not, who or which employs workers in an organization under contract of employment or in any other manner whosoever and includes the authority, in relation of an organization or a group of organizations run by or under the authority of any Ministry or department of the Federal Government or a Provincial government, appointed in his behalf or, where no authority is appointed, the head of the Ministry or department as the case may be.

33. In view of the above provisions of law Complainant fulfils the criteria of both the Employee and the Complainant. Accused on the other hand fall under the definition of Employer.
34. ***Under section 3 of the Act 2010 each organization shall constitute an inquiry committee to inquire into complaints under the Act and that committee shall consist of three members of whom at least one member shall be woman, one member shall be from senior management and one shall be a senior representative of the employee or a senior employee where there is no CBA. One or more members can be co-opted from outside the organization if the***

organization is unable to designate three members from within as described above.

35. The above section makes it clear that harassment committee shall consist of three members of the organization including one woman and if three members are not available with the organization, one or more member can be co-opted from outside the organization. In the instant case it is on the record that a three member committee already existed and in this particular case the said committee was made redundant and in its place seven members committee was constituted. No plausible reason for formation of seven members committee was given by the organization, thus the constitution of seven member committee was not in conformity with the provisions of section 3 *ibid*. Had there been non availability of the members from within, members could have been co-opted from outside the organization but it was not the case in this matter. On the constitution of seven members committee which was certainly in violation of the provision of section 3 of the Act, 2010 serious reservations were expressed by the Complainant but no attention was paid to her objections.

36. It is well settled proposition of law that an act required by any law to be done in a particular way should be done in that particular manner or otherwise it should not be done at all. Since the requirement of section 3 of the Act was only three members harassment committee at departmental level, constitution of seven members committee was quite violative of the said provision of law and for that matter it had no legality or authority whatsoever. The plea of the learned counsel for the accused that the complaint filed at this forum was in fact the second complaint and hence not taneable, was not the correct appreciation of the relevant law. It was the option of the Complainant either to file complaint before inquiry committee or before the Ombudsman. As the previous complaint was not entertained by the inquiry committee constituted earlier i.e. three members committee and was proposed to be sent to an illegal constituted committee consisting of seven members, that complaint could not have been considered to have been filed before an inquiry committee of the organization whereas the complaint filed at this forum would be treated as a first complaint.

37. For the above reasons I would repel the objection of the Accused No. 1 regarding maintainability of the complaint at this forum on the ground that it is a second complaint which is not competent. The Complainant had filed the complaint when she was still employee and hence it might not be appropriate on the part of the accused to say that she filed the complaint when she remained no more employee of the organization. The Complainant has made clear allegation of unwelcome sexual advance and sexual favours by the Accused No. 1 and also alleged sexually demeaning attitude of the Accused No. 1 causing interference with her work performance or offensive work environment and to punish her for refusal to comply to such a request and made a condition for employment, her case clearly falls within the definition of section 2(h) of the Act 2020 which in turn is the domain of this forum. All the objections of the Accused No. 1 in this regard are not entertainable in the circumstances.
38. As regard the defense plea of the Accused No. 1 that the complaint against him is not genuine rather the conspiracy of his rival colleagues in the department specifically Mr. Ashfaq Jumani, Executive Member, to settle their scores on account of departmental issues, who used the Complainant as a tool to harm him, does not stand cogently established on the record.
39. In this regard it may be pointed out that the Accused No. 1 has been unable to prove that his rival colleagues have got some special relationship or closeness with the Complainant and due to this relationship, Complainant has been used as a benamidar. It has also not been established by the Accused No. 1 that the Complainant has been used by rival colleagues after getting some financial or other benefits. When nothing of the sort has been proved by the Accused No. 1, it does not appeal to a prudent mind that the Complainant has taken such a risky step for the benefit of others. It is also not shown on the record that the Accused No. 1 had such a strained relations with his colleagues due to which he was implicated in such a serious case. Some litigation of civil nature (if any) should not have been taken as enmity between the parties to initiate such like cases against each other. Mr. Sajjad Ahmed PW-2 is holding a senior post of General Manager PEMRA. He has stated categorically that in his presence the Complainant narrated the incident to Mr. Ashfaq Jumani, Executive Member. There is no reason not to treat the testimony of this witness as impartial and neutral. In short there is no such confidence inspiring evidence to show that the Complainant has filed the instant

complaint at the instance and instigation of Mr. Ashfaq Jumani and others. Thus the above defense plea of the Accused No. 1 is without any force.

40. Now coming to the main allegation of the Complainant regarding sexual harassment by the Accused No. 1, it has been her persistent stance that on 11-11-2019 Accused No. 1, called her to the room of Accused No. 2 and started very vulgar conversation with her putting forward his nude demands and threatened her to dire consequences in terms of non renewal of her services contract. The Complainant has reproduced the urdu version of that conversation in para 4 of her complaint. The analysis of the said conversation clearly brings this matter into the ambit of section 2(h) of the Protection against Harassment of Women at the Workplace Act 2010. The incident of 11-11-2019 was narrated by the Complainant to her colleagues and seniors particularly Mr. Ashfaq Jumani, Executive Member and PW Sajjad Ahmed, General Manager. She also lodged a written complaint about the said incident to the Accused No. 3 and as a result thereof inquiry committee was constituted vide office order dated 16-01-2020, without dissolving the earlier inquiry committee constituted on 10-12-2010. The newly constituted committee was objected to by the Complainant on the ground that it was constituted in sheer violation of the provision of section 3 as well as the spirit of the legislature in connection with Protection against Harassment of Women at the Workplace Act 2010. As the constitution of new committee was against the provision of the relevant Act, the Complainant raised substantial issue of law and facts and showed her no confidence on the same. She did not participate in the proceedings of that illegally constituted committee and instead approached Federal Ombudsman for Protection against Harassment of Women at the Workplace for redressal of her grievances. The issue of inquiry committee has been discussed in the earlier part of this order.

41. It is clear from the record that the Complainant has alleged her sexual harassment at the hands of the Accused particularly Accused No. 1. She narrated this incident to Mr. Ashfaq Jummani and Sajjad Ahmed (PW-2). She also narrated the incident to Saeed Soomro (CW-1) and on his advice she brought the matter into the notice of the Accused No. 3. Statement of Mr. Saeed Soomro, on fair analysis, proves to be a testimony of a disinterested person which in ordinary course of business and practice cannot be discredited or disbelieved. Had the Complainant not made such a narration before CW-1, he should not have supported the said version of an

ordinary woman qua an important and influential person like accused No. 1. Generally people are reluctant to stand witness against any powerful person. It has also been confirmed by CW-1 under cross examination that he had seen Accused No. 1, Accused No. 2 and Complainant sitting in the room on the relevant day. This deposition of him supports and corroborates the stance of the Complainant that she was called by the Accused No. 1 to the office of Accused No. 2 on 11-11-2019 where Accused No. 1 demanded her sexual favours.

42. Mr. Mukhtar Ahmed, CW-2 has also corroborated the stance of the Complainant with regard to the incident dated 11-11-2019.

43. Mr. Shakir Khan Zae, CW-3 sated that two or three days after the happening of the incident he got knowledge of the same by the mouth of Complainant on telecom.

44. The witnesses produced by the Accused No. 1 namely Nadir Khan, Jehanzaib Khanzada and Adeel Imtiaz have almost corroborated the occurrence of the incident and consequent thereupon the filing of complaint by the Complainant.

45. In short, in view of the evidence on the file one cannot deny the fact that the incident on 11-11-2019 did not occur and its report or complaint was not lodged by Complainant. From the above facts it stands proved that the Complainant has been able to discharge the burden of proof on her part. Now its the turn of the Accused No. 1 to prove that the allegations against him are false and fabricated. In my opinion accused have been unable to discharge the burden on their shoulders. Accused No. 1 has been unable to produce any cogent and tangible evidence to show that the occurrence did not take place on the relevant day and that the Complainant levelled against him false allegations at the behest of someone else. The stance of the Accused No. 1 that he has been roped in the case at the behest of Ashfaq Jummani etc seems not confidence inspiring and it appears to be an allegation of a bad workman who blames his tools or in other words after having been disappointed of his poor performance in the case, he like a drowning man has tried to catch a straw.

46. The Complainant is a woman of humble background who is not expected to have filed a frivolous complaint of such a nature against an influential person. It is a

matter of common sense that ***a lady would not ruin her modesty, dignity and respect by making a false complaint of sexual harassment just to defame a person or colleague and that too for advantage of a third party.*** Filing such a complaint by an ordinary woman is highly risky for her in our society. Such a complaint is considered to be a taboo against a woman and she is humiliated in the society. So a lady thinks hundred times before she takes such step. Protection against Harassment of Women at the Workplace Act 2010 has been promulgated for the safety of persons who feel unsecure at the workplaces and to punish transgressors for their act of sexual harassment, abuse or assault, such acts have to be condemned and discouraged. Such unwanted amorous advances by a boss towards his female junior would amount to a fundamental breach of the implied term of mutual trust and confidence. With more and more women going to the workplaces, their protection is of extreme importance to a civilised and cultured society.

47. Under Article 25 and 34 of the Constitution of Pakistan it is everyone's constitutional duty to protect women to ensure their full participation in all spheres of national life.

48. Although it has no bearing on the merits of the case which is decided in the light of the available evidence on the file, yet, to show the demeanour and conduct of the Accused No. 1 at the trial it is mentioned here that the Accused No. 1 during pendency of the complaint kept on moving different applications on different forums i.e. IG Police Islamabad and Director General FIA, complaining not only against the Complainant alone but this forum too levelling uncalled for, baseless and scandalous accusation. This behaviour of the Accused No. 1 would reflect his anxiousness for desperate remedy. His motive behind this campaign seemed to be two-fold, firstly to threaten and force the Complainant to withdraw her complaint and secondly to put pressure on this forum to extend him favour by hook or by crook. This type of conduct on the part of the Accused No. 1 holding senior position in the federal government can neither be supported nor appreciated by the right-thinking people who believe in rule of law in the country. It appears, however, that the Accused No. 1 remained unsuccessful in his above mentioned planning and designs.

49. Bringing all the relevant pieces of evidence together, their accumulative effect is, that the Complainant has been able to bring home the charge to the Accused to the hilt and has been succeeded to prove her allegation that the Accused No. 1 has sexually harassed her on the workplace on 11-11-2019. On the other hand Accused No. 1 has failed to substantiate his stance that he has been falsely implicated in the case by the Complainant at the instigation and conspiracy of someone else. Having been proved the harassment case against the Accused No. 1, he becomes liable to be proceeded against in terms of section 4(4)(ii)(d)(e) of Protection against Harassment of Women at the Workplace Act 2010. As regards Accused No. 2 he has been proceeded ex-parte in terms of section 8(2) of the Act 2010 and that he also proves to have hand in glove, he too is held guilty of the charge being an instrumental and facilitator of Accused No. 1. Accused No. 2 is, therefore, also imposed penalty under section 4(4)(ii)(a)(e) of the Act 2010 (reduction to a lower post) with a fine of Rs. 5 lacs to be paid to the Complainant as compensation.
50. In view of above, Accused No. 1 is imposed upon the major penalty of dismissal from service with a fine of Rs. 20 lacs to be used as compensation for the Complainant for the hardships she faced at the hands of the Accused No. 1. This order should be sent to the competent authority for implementation in letter and spirit furnishing compliance to the Registrar FOSPAH within prescribed limitation i.e. 7 days after receipt of the order.
51. At the end I deem it essential to ask the PEMRA top management to constitute permanent harassment committee to look into, probe and decide the harassment cases as per enactment and also install/fix CCTV cameras on the conspicuous places to monitor the activities of the staff at workplace. Similarly I would also like the management to display code of conduct and guideline of FOSPAH on common areas of the premises for consumption of all and sundry. Compliance report to be furnished to the Registrar of FOSPAH within the prescribed limitation i.e. 7 days after receipt of the order.

FEDERAL OMBUDSMAN