

OFFICE OF THE FEDERAL OMBUDSPERSON

FOR PROTECTION AGAINST HARASSMENT OF WOMEN AT THE WORKPLACE, ISLAMABAD

FORM OF ORDER SHEET
Appeal No. FOH-HQR/0000291/2022

Date of Institution: 18-07-2023

Serial No. of Order of Proceedings	Date of order of Proceedings	Order of other proceedings with Signature of Federal Ombudsperson			
		TITLE:	Usman Arshad Naib Qasid	VS	Chief Commissioner-IR & others i. Chief Commissioner ii. Additional Commissioner-IR/Inquiry officer iii. Commissioner-IR/Chairperson iv. Secretary, HRMIR-II, FBR v. Assistant Commissioner-IR,
		DEPARTMENT: Regional Tax Office (RTO), Islamabad			
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14	30-08-2023	<p>Appeal No. <u>FOH-HQR/0000291/2022</u></p> <p>This appeal under Section 6 of the Protection against Harassment of Women at the Workplace Act 2010 (Amendment) Act 2022 is directed against the order dated 15-06-2022 whereby the Competent Authority has imposed major penalty of removal from service upon the Appellant in terms of Section 4(4)(ii)(c) of the Act <i>ibid</i>.</p> <p>Briefly narrated facts of the case are that Respondent No. 5 Ms. Farah Aleem Chughtai, Assistant Commissioner (IR), posted in Unit III, ICTO Zone filed a complaint dated 31-08-2021 to the Chief Commissioner in Land Revenue Regional office Islamabad on the allegations that the Appellant Usman Arshad Baig (Naib Qasid) had been following and harassing her for the past two weeks. That he followed her to the house on Friday 27th August and was caught on video cameras. That she took</p>			

pictures of him, stalking her a week before that on 20th August. That she immediately informed the DC Headquarter and upon her reassurance that strict action would be taken against the Accused, did not file any FIR with the police. However, she sent all evidences to the police as a preemptive measures. The lady requested her department to take strict action against the Appellant.

Consequent upon the said complaint, the department, firstly, formed the Fact Finding Inquiry through Amir Javed, Additional Commissioner, Large Taxpayer office, Islamabad who gave his report dated 21-10-2021 holding that the Appellant had been following, chasing and stalking the lady Complainant (Respondent No. 5), that the act of the Accused would, prima facie, be categorized as harassment in terms of the relevant Act and that the chasing and stalking of the Complainant by the Accused not only created an intimidating, hostile and offensive work environment for the Complainant but also damaged her socially and psychologically.

In light of the above mentioned Fact Finding Inquiry report, the organization ordered a formal inquiry in terms of Section 3 of the Act vide office order dated 08-09-2021. The Inquiry Committee so constituted consisted of three members namely Nahid Akhter Durani, Additional Commissioner-IR (Member), Muhammad Salamat Ullah, Assistant Commissioner-IR (Member) and Ms. Sehar Munaf, Commissioner-IR (Chairman). The Committee conducted detailed inquiry on the basis of the following charges:

- i. That she (complainant) was stared, stalked, followed and harassed by the accused.
- ii. That the accused Naib Qasid demonstrated behavior and conduct that was intimidating hostile and offensive affecting her (complainant's) wellbeing, prestige/honor and official work.

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| | | <p>iii. That while her (complainant's) posting at sub-office building, G-10 Building, RTO, Islamabad during the period from September, 2020 to August, 2021 the accused constantly remained staring at her while her way to ladies' bathroom due to which she felt uncomfortable/uneasy.</p> <p>iv. That she (complainant) at multiple occasions during the relevant period noticed the presence/standing of the accused outside of her office in the East Zone at first floor of the building in spite of the fact accused was posted in West Zone at ground floor of the building.</p> <p>v. That on 09-08-2021 while her (complainant's) posting was in G-9 Office Building, RTO, Islamabad, she found the accused standing in Car Parking staring at her although he was posted at G-10's office and had no business at G-10's office building or with her staff. The Complainant stated that aforementioned hostile acts on part of accused depict a plain act of harassment towards her. She further stated that she disclosed in confidence the aforementioned hostile acts of the accused/incidents with her lady colleagues Ms. Sajjal Tariq, Ms. Haneen Saif, DCIR and Ms. Madina Mobin, ACIR, RTO, Islamabad.</p> <p>vi. That on 20-08-2021, Friday, she (complainant) has some official business at RTO, Islamabad's G-10 building. While leaving the premises, she noticed the accused in the car park staring at her. She ignored and left for I-8 Markaz, Islamabad at 5:00 p.m., where she had some personal errand to run. While inside a lady's store she notices across the glass door and found the accused standing near her case at 5:15 p.m. The</p> |
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complainant also stated that she further spent some time at another store to merely notice accused's behavior, who kept standing near her case, waiting. When the undersigned started walking towards her car she noticed the accused take out his mobile phone and pretend to be on a call. The undersigned feeling worried and scared then took a picture of the accused before leaving the market which clearly shows the time to be 5:54 pm. The undersigned also immediately notified a colleague i.e. Ms. Madiha Mobin, ACIR, RTO, Islamabad who can bear witness. The accused had no business there. He had followed the undersigned to I-8 Markaz and was stalking her.

- vii. That on 27-08-2021, she (complainant) again notices the Accused Naib Qasid standing in the car park of RTO, G-9 Building staring at her, while she left from office at 5:00 pm. The undersigned reached home at 05.20, after she parked her car and got out she noted the accused to be behind her in his white Corolla with a plate on the wind screen that reads "Sarkar". She saw the accused's face and recognized him. The video evidence also clearly shows the rear side of the accused's distinguishable car with Pakistan flag on the back screen and black string tied beneath bumper. The undersigned apprised through whatsapp messages the details of both the incidents to the Deputy Commissioner (HQs) at 05.40 p.m.

While completing the task of inquiry, the Committee found the Accused (Appellant) guilty of causing harassment at the workplace to the Complainant (Respondent No. 5) and consequently recommended major penalty of removal from service which resulted in the impugned order dated 15-06-2022 of the Competent Authority.

Feeling aggrieved of the impugned order dated 15-06-2022, Usman Arshad Baig preferred the instant appeal on the grounds inter alia that the impugned order was passed with malafide intention without any plausible reasoning, without considering the stance of the Appellant and without proper mentioning of evidence put forth by Respondent No. 5. Appellant further submitted that the impugned order was against the facts and record of the case, it was patently illegal, arbitrary, fanciful and contradictory and as such it was liable to be set aside.

On the other hand the department/organization in its response defended the impugned order on the ground that it was passed on the recommendation of the Inquiry Committee which conducted fair and unbiased inquiry and found the Appellant guilty of the charge of harassment. It was further pointed out that the Competent Authority, prior to conclusion of the inquiry proceedings had afforded opportunity of personal hearing to the Appellant and after considering all the relevant facts and supporting evidence of the case in a judicious manner endorsed the recommendations of the Committee while imposing major penalty upon the Appellant.

I heard the arguments of the learned counsel for the parties and have gone through the relevant record.

Although the Appellant has alleged malafide intention of the Inquiry Committee as against him, yet, there is no cogent evidence to show that the Inquiry Committee acted in a partisan or biased manner. All the members of the Committee are senior position holders of the department who have no clash of interest with the Appellant who worked there as a Naib Qasid. Appellant has been unable to prove any grudge or malice of the Inquiry Committee against him prompting to impose major penalty upon him. Complainant (Respondent No. 5) is also a senior officer in the department who has no clash of interest with the Appellant to implicate

him in case of such a nature. There is nothing on the record to show any reason or justification for the Complainant to file a false case against the Appellant or the Inquiry Committee to conduct biased inquiry against him. Generally such type of pleas or objections are raised by Accused for their face saving. In the given circumstances of the case one cannot expect a false complaint by Respondent No. 5 against the Appellant.

It is a matter of common sense that a female would not ruin her modesty/dignity/respect by making a false complaint of sexual harassment just to defame a person/colleague. Protection Against Harassment of Women at the Workplace Act 2010 has been promulgated for the safety of persons who feel insecure at the workplace and to punish transgressors for their act of sexual harassment, abuse or assault--- Such acts have to be condemned and discouraged to make the workplaces safer. With more and more women coming to workplaces etc, their protection is of extreme importance to a civilized and cultured society. Under Articles 25 & 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.

Admittedly, the Appellant has been awarded major penalty after inquiry into the matter by the Competent Authority in the shape of removal from service instead of dismissal from service, which may be considered as a lenient/lessor punishment, which in my view is a fair order.

In my opinion, Appellant has failed to point out any infirmity, perversity and illegality in the inquiry conducted by the departmental committee as well as in the decision of the Competent Authority.

For the aforementioned reasons, I am constrained to dismiss the instant appeal which is, therefore, refused.

		FEDERAL OMBUDPERSON
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