



PROVINCIAL OMBUDSMAN SINDH
THE PROTECTION AGAINST HARASSMENT OF
WOMEN AT THE WORKPLACE

Complaint No. : 29(HYD)/2017
Name of complainant : Mst. Shagufta Shah
Address of complainant : 58-C, Muslim Co-Operative
Housing Society, Hyderabad.
Name of Accused : Nasim Ahmed Memon
Address of Accused : Flat No.11/A, Hijra
Enclave, Nasim Nagar,
Hyderabad.
Nature of Complaint : Harassment and intimidation.
Visit and site inspection : NIL
Date of Decision : 24.11.2023

Mr. Sajjad Ahmed Chandio advocate for complainant
Ms. Mumtaz Begum Noonari, State Counsel
Mr. Athar Abbas Solangi advocate for accused

ORDER

JUSTICE (R) SHAHNAWAZ TARIQ, OMBUDSMAN:- Complainant Mst. Shagufta Shah working as teacher in BPS-17 at Public School Hyderabad (hereinafter referred to as “the school”) has instituted instant complaint under section 8 of the Protection Against Harassment of Women at the Workplace Act, 2010 (hereinafter referred to as “the Act, 2010”) against accused namely Nasim Ahmed Memon, the then principal of the school, and presently posted as Chairman, Board of Intermediate and Secondary Education (BISE), Larkano, for committing sexual harassment, intimidation and mental agony, and has prayed that accused may be taken to the task.

2. Relevant facts spelt out from the complaint are that complainant has stated that she was appointed as a teacher in 2001 and due to her good performance, she was assigned additional tasks consisting of Head of Sindhi Department Girls

Section in 2011, Head of Arts and Crafts Department Girls Section in 2011, In-charge of Library Girls Section in 2011, Chief Editor of school magazine 2012/13, In-charge of Cultural Day/Latif Day held on 07.12.2016, Vice Principal (hereinafter referred to as "VP") being senior teacher of Junior Section in 2016 and Head of Social Media group of the school in 2016.

3. Complainant has stated that she faced difficulties in her promotion and threats of removal from job, therefore, in past, she along with other teachers and parents of students had approached the honorable High Court of Sindh and directions were issued to the management to improve conditions and atmosphere of school. She has stated that accused was appointed as principal on 02.04.2016 and he claimed to be the friend of former Commissioner Hyderabad (hereinafter referred to as "the Commissioner") and affiliated with ruling political party, therefore, no one can question his orders. She alleged that accused used to call only female VPs including her at his office for meetings and forced them to be with him at his office for hours without any reason, and also proposed her for marriage and offered friendship verbally and via Facebook messenger, WhatsApp, and made phone calls on her cell phone number 0300-3021381 from his cell phone number 0300-3444473 and forced her to talk at late night, and on her refusal, he sent abusive messages. She has stated that she tried to restrain the accused from his unethical activities, therefore, he verbally excused her for his said behavior and told her that he is a drunkard and it happens due to hangover at midnight. She alleged that despite verbal complaints to accused and all other concerned officials no inquiry or action was initiated against the accused, thus, she sent leave application on 31.01.2017, wherein she had stated that she will not stay in school after 02:30 pm except the occasions when important meetings are held along with other VPs. She alleged that accused started interference in her work by creating hostile atmosphere due to her refusal to accept his friendship, and passed adverse orders and relieved her from all assignments including VP. She alleged that accused under

annoyance called her at his office through official telephone number of school and sent message from his Facebook account to join her duty, therefore, when she visited the accused at his office, he repeated offer of friendship but on her refusal, he issued threats of removal from service and issued a reminder-I show cause dated 22.02.2017, on false grounds. She stated that there was no complaint against her till 31.01.2017, but when she refused to accept offer of relationship, accused started pressurizing her. She alleged that accused used to blackmail the staff for his personal gains and in case of refusal, he relieved them from their posts but on acceptance of his demands, he restored them which is proved from record that Pir Muhammad Junejo VP was relieved from the charge of VP (HSc) on 25.08.2016 as Ex:C-37 but he was again assigned same post on 27.08.2016 as Ex:C-38, Usman Ghani was terminated on 20.07.2016 under allegations of corruption as Ex:C-39, and then he was reposted as Assistant Admin Officer on 20.09.2016 as Ex:C-40, and Ms. Mah-e-Talat was issued show cause notice on 18.05.2016 with serious allegations as Ex:C-41 but on 01.02.2017, she was posted as VP Junior Section as Ex:C-42.

4. In rebuttal, accused filed his written defence and has stated that after his appointment as principal, he made effective changes in administration and academics. He has stated that complainant has narrated that she along with others had approached the honourable High Court of Sindh for improvement of the conditions of school which indicates that she had played the leading role in litigation except the academics. He alleged that complainant in past moved false applications against the then principal and also lodged FIR of theft against the then Chairman Board of Governors (hereinafter referred to as "BOG") namely Abdul Hameed Memon but he was acquitted by JM-VIII Hyderabad. He denied the allegations of his affiliation with ruling political party being

complainant sent marriage proposals to many male unmarried teachers in the past but she failed to attract anyone. He has stated that looking at the record of interference of complainant in academic and administrative affairs, she was transferred as acting VP of Junior Section from 09.05.2016 to 01.02.2017 and during that period she was pressing hard for her promotion in BPS-18. He has averred that when she failed to get her promotion due to financial constraints, she proceeded on leave on 31.01.2017 and sent application from home for one month leave which was approved and she was repatriated to Girls Section. Complainant filed CP No.D-393 of 2017 against her repatriation/relieving which is still pending before honourable High Court of Sindh. He also alleged that during the period of posting of complainant as acting VP, she had no complaint of harassment but as soon as she was relieved from the charge of VP, she alleged harassment against him. He alleged that the matter was vice versa as complainant started writing derogatory comments on his official orders. He has further stated that complainant had moved same complaint to Federal Ombudsperson Islamabad against him and the matter was referred for investigation to the Commissioner. He alleged that complainant is in habit to drag the head of institution in false complaints, therefore, she has leveled false allegations him which is outcome of her criminal imagination to satisfy her personal grudges.

5. Complainant filed her affidavit in evidence and produce it as Ex:C-1. She produced photocopies of certificate dated 14.11.1987, certificate dated 20.12.1992, certificate dated 10.03.1993, certificate dated 24.04.1996, certificate dated 14.08.1999, certificate dated 18.10.2001, certificate dated 31.08.2001, certificate of 2002, certificate issued by WWF, certificate of KFC for 2005, order dated 08.06.2010, award dated 12.11.2012, certificate dated 29.11.2012, order dated 16.08.2016, order dated 14.12.2011, order dated 09.05.2016, copy of magazine, order dated 30.11.2016, order dated 01.02.2017, application dated 31.08.2016, application dated 31.01.2017, order dated 01.02.2017, order dated 28.02.2017,

order dated 11.03.2017, suspension order dated 11.03.2017, CP No.D-393/2017 and order dated 11.09.2017, show cause notice dated 22.02.2017, notice dated 13.03.2017, charge sheet dated 11.04.2017, charge sheet dated 20.05.2017, complaint dated 06.03.2017, charge sheet dated 11.04.2017, order dated 25.08.2016, order dated 27.08.2016, termination order dated 20.07.2016, order dated 20.09.2016, show cause notice dated 18.05.2016, order dated 01.02.2017, complaint dated 28.03.2017 to ASP Zahida Parveen, 7 screenshots of Facebook messenger of accused, complaint dated 28.07.2017 to Chairman BOG, notice dated 04.07.2017, 3 news clips of daily Kawish dated 31.07.2017, 02.08.2017 and 03.08.2017 as Exs:C-2 to C-55 respectively. Complainant's witness namely Kousar Sultana Siddiqui filed her affidavit in evidence and produced it as Ex:CW-1/1. She produced photocopies of complaint dated 28.03.2017 against accused sent by her to women protection cell, complaint to Chairman BOG dated 24.05.2017, first inquiry report of Commissioner and second inquiry report dated 11.06.2021 as Exs: CW-1/2 to CW-1/5. Complainant's witness namely Syeda Asma Khatoon filed her affidavit in evidence and produced it as Ex:CW-2/1.

6. Accused filed his affidavit-in-evidence and produced it as Ex:A-1. He has produced photocopies of appreciation certificates dated 20.11.1994, certificate for 2002, dated 28.07.2003, dated 22.10.2012, order dated 15.03.2016, order dated 01.02.2017, show cause notice dated 16.02.2017, show cause notice dated 22.02.2017, CP No.D-393/2017, order of Federal Ombudsman Islamabad dated 05.07.2017, notice dated 01.08.2017, order dated 02.08.2017, letter dated 22.05.2014, letter dated 21.10.2014 by Fouzia Siddiqui, show cause notice dated 28.07.2011, show cause notice dated 29.08.2013, complaint of Owais Mateen dated 03.08.2013, explanation dated 19.01.2016 by Fouzia Siddiqui, explanation dated 21.07.2016, warning letter dated 19.07.2016, explanation letter dated 11.03.2017, letter dated 11.03.2017 to Khalida Jahangir, letter dated 06.03.2017 by Fouzia Siddiqui, FIR No.84/2011, FIR No.85/2011, order dated

17.01.2012 passed by VIII-Judicial Magistrate Hyderabad and Rules and Bye laws of school as Exs:A-2 to A-29 respectively.

7. Mr. Sajjad Ahmed Chandio advocate for complainant, Mr. Mumtaz Begum Noonari, State Counsel and Mr. Athar Abbas Solangi advocate for accused advanced their arguments at length.

8. In his defence plea, accused has raised several objections against the allegations made by the complainant in her complaint. According to his first objection, the complainant did not move any complaint against him from April 2016 till February 2017, and she made her first complaint on 06.03.2017, after she was relieved from the post of VP and was issued show cause notice on 16.02.2017. Perusal of the record reflects that the complainant in her complaint and affidavit in evidence has leveled series of allegations against the accused since she was appointed as VP, and has stated that due to the hostile environment and demeaning attitude of the accused, it was not possible for her to perform her official duties, and finding no other way out, she submitted applications for leave at the office of accused. It has been admitted by both sides that leave application dated 31.01.2017, moved by the complainant was approved by the accused without pay, and simultaneously, she was relieved from the post of VP vide order dated 01.02.2017 as Ex:C-42. Complainant challenged her relieving order through CP No.D-393 of 2017, before the honorable High Court of Sindh on 13.02.2017, and thereafter, in retaliation, during the pendency of said CP, accused issued her show cause notice on 16.02.2017 as Ex:A-8, on the ground of her earlier approved leave application. Thereafter, he deliberately issued her another show cause notice on 22.02.2017 as Ex:C-31, and also relieved her from the additional charges of Officer In-charge Library of Girls Section, and as the Head of Department Arts and Crafts Department of Girls Section on 28.02.2017 as Ex:C-26. Thereafter she was removed from the position of the Head of Department of Sindhi Section on 11.03.2017 as Ex:C-27 and was suspended on 11.03.2017 as Ex:C-28, for an indefinite period. Ultimately, accused issued

her final show cause notice on 13.03.2017 as Ex:C-32, followed by charge sheets dated 11.04.2017 as Ex:C-33, and 20.05.2017 as Ex:C-34, threatening the complainant for dismissal from service, therefore, she reported the entire hostile conduct of the accused to the honourable High Court and the operation of said suspension order was suspended on 11.09.2017 as Ex:C-30, and the Commissioner was directed to submit inquiry report regarding the complaint moved to his office by the complainant within ten days. It is pertinent to mention that complainant in her leave application dated 31.01.2017 as Ex:C-24, has clearly mentioned the reasons for moving such application which are reproduced as under:-

“to avoid the disturbance in my personal and domestic life, I will not be able to stay after 2:30 pm (one hour after closure of school) except the occasion when important meetings are held along with VP girls and boys”.

Accused has admitted in his cross-examination that complainant in para-3 of her said leave application has mentioned that she will not stay in school after its closure. Admittedly, accused despite approval of leave application of complainant without pay, has deliberately punished her by issuing show cause notices, relieving her from the charge of VP and various other assignments, and suspending her for an indefinite period, knowingly that suspending someone for an indefinite period amounts to a grave violation of victim's fundamental rights. It is apparent from the record of this case that as soon as CP No.D-393 of 2017, was filed before the honourable High Court of Sindh, he issued final show cause notice and charge sheets to remove her from the service, while the proceedings were pending before the honourable High Court, in order to punish her for enforcing and exercising her rights by simply availing the legal remedy available to her, that is, approaching the honourable High Court, so, that neither complainant nor anyone else could dare in the future to take any action against the accused for the offences that he has

honourable High Court, and therefore, referred the matter to this office.

9. Indeed, through her leave application, complainant had refused to stay at the school after working hours which was a reasonable and rightful request, however, the accused reacted with a hostile attitude by initiating various adverse actions only to punish and penalize her for rightfully refusing to stay in the office after school hours. It is worthwhile to mention that accused being the immediate boss had initiated the above referred adverse actions against the complainant in order to pressurize and cause her mental agony and harassment when the matter was already subjudice before the honorable High Court of Sindh, which proves his malice and mala-fide intention towards the complainant.

10. Admittedly, accused had assigned the charge of VP to the complainant being the senior most teacher, and no show cause was issued to her till moving of her said leave application. While considering the allegations of accused regarding poor performance of the complainant and her incapability of holding the charge of VP, it is an admitted position that accused neither initiated any disciplinary action against her nor withdrew the charge of VP from her prior to her said leave application wherein she had made it clear that she will not stay alone in school after its closure. It is revealed during the course of arguments that the additional charge of Head of Social Media Group of the school was also withdrawn from the complainant which was assigned to her vide office order dated 16.08.2016, as Ex:C-21. The above referred statement of the complainant on oath before this office is sufficient to believe that she had proceeded on leave under compelling circumstances to avoid any further act of harassment by the accused which was being faced by her.

11. There is no limitation period prescribed under the Act, 2010, for filing of harassment complaint before the office of the Ombudsman as well as inquiry committee, therefore, no adverse opinion or inference can be drawn against the

complainant for not filing harassment complaint instantly after the commission of harassment by the offender. The Code of Conduct clause (vii) has permitted the victim to file the harassment complaint at any time which is reproduced as under:-

“A complainant does not necessarily have to take a complaint of harassment through the informal channel. She can launch a formal complaint at any time.”

In the case of *Uzma Naveed Chaudhry v. Ather Farook Buttar* (PLD 2022 SC 783), the honourable Supreme Court of Pakistan has observed as follows:-

“9. So far as the objection of the respondent that there is a long delay in lodging the complaint by the petitioners against him after the alleged incidents of harassment is concerned, the President has rightly rejected the same and observed that delay in such cases is understandable. In our social and cultural setting where prevailing notions of family honour and taboos play a dominant role, it is not easy for a woman to speak up about such deeply disturbing incidents. There is also the apprehension of counter allegations hurled against her character by the delinquent. For these and other reasons, many cases of sexual harassment remain unreported. Victims of sexual harassment who exhibit the courage to report the matter against all odds should not, therefore, be turned away on the ground of delay in lodging the complaint. The courts, tribunals and authorities concerned must take a lenient view on the delay in filing the complaint by the victim and decide the case on merits. This will encourage victims to come forward to seek justice. The principle enunciated by this Court in several criminal cases involving sexual assault, that delay in reporting the incident to the police in such cases is not material, equally applies to the complaints of sexual harassment made under the Act.”

Similarly, in the case of *Nadia Naz v. Syed Nayab Hussain Gardezi* (PLD 2023 SC 588), the honourable Supreme Court of

has observed as follows:

"12. The cited case law shows that sexual harassment at the workplace affects the dignity and honour of a woman and needs to be eliminated. Further that the purpose of harassment laws is to address gender-based discrimination at the workplace and not to limit it to sexual forms of harassment. It includes a broad range of conduct and behavior which results in workplace problems with serious consequences, one of the main being inequality. Being an issue grounded in equal opportunity and equal treatment of men and women in matters of employment, sexual harassment in any form violates the dignity of a person as it is a demeaning practice that to reduce the dignity of an employee who has been forced to endure such conduct. Sexual harassment as gender-based discrimination is gender-based hostility, which creates a hostile work environment. It is reflection of the unequal power relation between men and women which translates into a form of abuse exploitation and intimidation at the workplace which makes it a violation of a basic human right."

In view of above discussed circumstances and identical verdicts of the honourable Supreme Court, instant harassment complaint cannot be rejected merely on the ground that it was not filed instantly after the alleged incident of harassment, therefore, the objection raised by the accused is regretted.

12. Accused has raised second objection that complainant had filed CP No.D-393 of 2017, against him but in said CP, she neither leveled allegations of harassment nor mentioned about screenshots of Facebook messages, therefore, her allegations are not trustworthy. Perusal of the record reflects that the complainant was relieved from the charge of VP vide order dated 01.02.2017, issued by the accused and a junior teacher namely Ms. Mah-e-Talat was assigned the charge of VP, therefore, complainant filed the CP with prayer to recall her relieving order and also grant her due promotion to grade-18, on the grounds that Mah-e-Talat is a junior and less academically qualified than her. It is further transpired from the record that during the hearing of the said CP, complainant apprised the demeaning attitude of the accused to the honourable High Court, and considering the gravity of the

prevailing circumstances, the honourable Court had passed order dated 11.09.2017, with certain directions including approaching this office with respect to the issue of workplace harassment, which is reproduced as under:-

“Order

Urgency granted. To come up on 10.10.2017. Till then the operation of suspension order dated 11th March 2017 is hereby suspended. Meanwhile, the petitioner would be at liberty to approach the Ombudsman of harassment at workplace. Commissioner Hyderabad who has conducted the inquiry in this issue shall submit such inquiry report within 10 days.”

Perusal of the above order reveals that the honourable High Court after perusing the facts, available record and allegations leveled by the complainant, was of the opinion that the case of complainant pertains to sexual harassment at the workplace, and falls under the Act, 2010, therefore, she may approach the office of Ombudsman for redressal of her grievances, and thereby admitting the jurisdiction of this office to the proceedings provided under the Act, 2010. The record further reflects that complainant filed said CP on 13.02.2017, while the Facebook messages were allegedly sent by accused to her on 25.07.2017, therefore, it was not possible to refer said messages while filing the said CP. Furthermore, during the inquiry proceedings before the Commissioner, the complainant, her witness Kousar Sultana and accused appeared on 01.08.2017, where complainant produced same Facebook messages dated 25.07.2017, which were endorsed by the Commissioner in para-5 of his report produced before the honourable High Court of Sindh in said CP. Therefore, the objection raised by the accused regarding the CP being silent on the issue of the sexual harassment and Facebook messages is discarded.

13. Accused has raised third objection that complainant has admitted in cross-examination that Facebook account of any person can be created and she herself has written the date

While controverting the above contentions, learned defence counsel has vehemently contended that during the course of final arguments, the learned counsel for complainant cannot show the said Facebook account for judicial notice at this belated stage, and she herself has mentioned the date on said printout, therefore, these messages are fake.

14. It has been admitted by the accused in his cross-examination that he never approached the FIA or any other concerned authority against the said Facebook account which he allegedly claims to be fake, making it difficult for this office not to trust the allegations leveled by the complainant regarding receiving said messages from the said Facebook account by the accused himself. Furthermore, it is part of the Commissioner's report that accused has admitted sending the said messages to the complainant and also admitted his guilt before him without challenging the veracity of said Facebook account and messages as well as the said report itself which, therefore, has attained finality. The relevant portion of the said commissioner's report is reproduced as under:-

"5. The principal and complainant along with the witness, nominated by the complainant, Ms. Kausar Sultana Siddiqui, were again called upon on 1st August, 2017. Ms. Kausar Sultana Siddiqui recorded her statement (Annex-IV) supporting the allegations leveled by the complainant. The complainant Ms. Shagufta Shah came up with some other proofs containing the text messages bearing language that does not even suit to a layman let alone the head of such prestigious institute like public school (Annex-V). The respondent, Principal Public School at last admitted charges made against him maintaining that the respondent (The Principal) also retains some adverse evidences against the complainant."

Perusal of the record further reflects that accused has denied in his cross-examination that in para-7 of the inquiry report of the Commissioner/Chairman BOG, he was found involved in harassment and was warned by the Commissioner. However, accused saw para-7 of the said inquiry report during his cross-examination and admitted its contents which are reproduced as follows:-

TUESDAY AT 05:16 AM

Accused: Plz nhe baat karo gi?
(پلیز نہیں بات کرو گی!)

Admittedly, the above referred Facebook messages were also produced during the inquiry proceedings before the Commissioner which are not only derogatory and insulting in nature but also fall under the domain of section 2(h) of the Act, 2010, therefore, merely mentioning the date 25.07.2017 on the printout of Facebook messages will not affect the authenticity of said messages which otherwise already contain their printed different dates, thus, the objection raised by the accused is discarded.

16. Accused has taken fourth objection that complainant has not mentioned the names of her witnesses in her complaint and affidavit in evidence, therefore, evidence of complainant's witnesses is not admissible in instant complaint. It is pertinent to mention that under the Act, 2010, the Code of Conduct and the Protection against Harassment of Women at the Workplace (Filing and Disposal of Complaints) Rules, 2013 (hereinafter referred to as "the Rules, 2013"), a mechanism has been provided to move the harassment complaint to the inquiry committee or Ombudsman for redressal of grievances. For convenience the relevant provisions of the Code of Conduct are reproduced as follows:-

"(vii) A complainant does not necessarily have to take a complaint of harassment through the informal channel. She can launch a formal complaint at any time.

(viii) The complainant may make formal complaint through her in-charge, supervisor, CBA nominee, or worker's representative, as the case may be, or directly to any member of Inquiry Committee. The Committee member approached is obliged to initiate the process of investigation. The supervisor shall facilitate the process and is obliged not to cover up or obstruct the inquiry."

Likewise, Rule No.5 (1)(c) of the Rules, 2013, provides that "the complaint may contain names of witnesses".

Similarly, Section 10 of the Act, 2010, empowers the office of Ombudsman to exercise the following powers at its own accord or on the request of any party to the complaint as follows:-

- i. Summoning and enforcing the attendance of any person and examining him on oath.*
- ii. Compelling the production of evidence.*
- iii. Receiving evidence on affidavits.*
- iv. Issuing commission for the examination of witnesses.*

Perusal of the above referred provisions of law reflect that the legislatures have not used the word "shall" in the Act, 2010, as well as the Rules, 2013, to mention the names of the witnesses in the complaint, but have used the word "may", therefore, mentioning the names of witnesses in complaint is not mandatory but is optional and the prerogative of the complainant, therefore, merely not-mentioning names of witnesses will not be fatal to the merits of the complaint nor will debar the complainant to call or produce the persons as witnesses during the commencement of inquiry proceedings who are well aware of the facts and their evidence is essential for dispensation of justice. It is pertinent to mention that the identity of victim as well as her witnesses can endanger them and jeopardize their employment, which has also been recognized under section 4(3)(a) of the Act, 2010, which was included by the legislatures with the safety of the victim as well as her witnesses in mind, therefore, the sensitivity of the issue of the identities of the victim and her witnesses cannot be taken lightly and treated casually at any stage of the proceedings. Moreover, both witnesses of the complainant in present complaint have filed their affidavits in evidence with the permission of this office and accused has conducted their cross-examination, therefore, considering the above circumstances, the objection raised by the accused is regretted.

17. Accused during the course of arguments has raised fifth objection that witness Kousar Sultana has mentioned that the meeting was held on 03.03.2017, but she has not mentioned

the names of the participants in front of whom accused had uttered abusive remarks against the complainant, therefore, her statement has no legal value. It is transpired from the record that complainant's witness Kousar Sultana has stated in her evidence that accused convened a staff meeting on 03.03.2017, in his office and during said meeting he used abusive and derogatory language against the complainant which is reproduced as under:-

”کہ اب شگفتہ شاہ آئیگی تو میں میدان میں کھڑے ہو کر اُسکے سر پر جوتے ماروں گا۔۔۔۔۔ شگفتہ شاہ خود کو سمجھتی کیا ہے، کیا وہ حورِ پرہی ہے؟۔۔۔۔۔ شگفتہ شاہ خود کو کیا سمجھتی ہے اُس نے کبھی دیکھا ہے میرا بیڈروم کتنا قیمتی ہے میں کتنے قیمتی بیڈ پر سوتا ہوں اُس نے کبھی خواب میں بھی نہیں دیکھا ہو گا۔“

(“When Shagufta Shah will come, I will stand in the ground and hit with shoes on her head. What does Shagufta Shah think of herself? Is she a fairy? What does Shagufta Shah think of herself? Has she ever seen how precious my bedroom is, how precious is the bed I sleep on. She has never even dreamed.”)

She has further stated that after the said meeting, she went to the VP's office to deprecate filthy language used by the accused against complainant and since then he has started harassing and humiliating her and created offensive environment at workplace by issuing explanation to her. She has further stated that she also moved complaint on 28.03.2017 as Ex:CW-1/2 to ASP Zahida Parveen of Women Protection Cell of Police against immoral and unethical activities of accused, and thereafter her statement was recorded on 24.05.2017, before the Commissioner in inquiry conducted on the complaint moved by the complainant. In her cross-examination, she has stated that in the meeting dated 03.03.2017, about 6 male teachers and 30 female teachers had participated and said meeting was held for about an hour. She saw complaint sent by her and 14 other teachers against accused regarding his abusive remarks uttered in the said meeting as Ex:CW-1/4 and stated that said complaint contains their names and signatures.

18. Complainant's witness Syeda Asma Khatoon has filed her affidavit in evidence before this office and fully corroborated the statement of witness Kousar Sultana. She has deposed that on 03.03.2017, a staff meeting was convened by the accused in his office wherein he used offensive and filthy language against the complainant which is reproduced as follows:-

”کہ اب شگفتہ شاہ آئیگی تو میں میدان میں کھڑے ہو کر اس کے سر پر جوتے ماروں گا۔۔۔۔۔۔ شگفتہ شاہ خود کو کیا سمجھتی ہے اس نے کبھی دیکھا ہے میرا بیڈروم کتنا قیمتی ہے میں کتنے قیمتی بیڈ پر سوتا ہوں اس نے کبھی خواب میں بھی نہیں دیکھا ہو گا۔“

(“When Shagufta Shah will come, I will stand in the ground and hit with shoes on her head. What does Shagufta Shah think of herself? Is she a fairy? What does Shagufta Shah think of herself? Has she ever seen how precious my bedroom is, how precious is the bed I sleep on. She has never even dreamed.”)

She has further stated that after the said meeting, witness Kousar Sultana went to the VP's office to confront the accused for using abusive language against the complainant. It is pertinent to mention that accused in his affidavit in evidence has not specifically denied the above allegations mentioned in affidavits in evidence of witnesses Kousar Sultana and Syeda Asma Khatoon. Accused has also not challenged during the cross-examination of witness Kousar Sultana that the joint application moved by her and 14 other teachers against him for making the abovementioned derogatory remarks in the said meeting is false, or the said application was never made by her in the first place. Perusal of both complaints referred supra reveals that witness Kousar Sultana had mentioned names of 30 participants of meeting in her complaint sent to Women Protection Cell of Police, while the joint complaint moved by her and other teachers bears the names and signatures of 14 teachers, therefore, the plea raised by the accused is discarded.

19. Accused has raised sixth objection that witness Kousar Sultana has produced inquiry report conducted by the

examination that in its Para-7, she has made addition in her handwriting, therefore, said report has lost its authenticity.

Learned counsel for complainant has vehemently contended that on the directions of the honorable High Court of Sindh, the Commissioner had produced his inquiry report wherein addition in handwriting was already made and thereafter on the direction of the honorable Court a typed copy was also filed by the Commissioner before the Court and certified copies issued by the honorable High Court have been produced in present complaint which are authentic.

20. With respect to the defence plea taken by the accused for producing tampered certified copy by the complainant's witness Kousar Sultana, it is pertinent to mention that this office has no jurisdiction to check the veracity and authenticity of the certified document which is part of the record of the proceedings of the CP No.D-393 of 2017, filed before the honourable High Court of Sindh. Furthermore, accused was provided with an opportunity to produce his evidence and witnesses in support of his defence plea, however, he has not availed the opportunity and did not produce before this office the certified copy of the said inquiry report which forms part of the proceedings of the said CP before the honourable High Court. The certified copies issued by the honorable High Court of Sindh are crystal clear as the same also contain the above handwritten addition in the subject report. Therefore, merely denying or admitting the veracity of the certified copy cannot help the accused to establish his defence plea. Considering the above-referred circumstances, objection raised by the accused is hereby discarded.

21. Accused has raised seventh objection that complainant has filed instant complaint against him with mala-fide intention as she was not promoted to BPS-18 due to financial constraints.

Though accused has claimed that complainant was pressing hard for her promotion to BPS-18, but due to financial constraints of the school, she could not be promoted to the next

grade, however, in his cross-examination, he has admitted that promotion of complainant is the domain of BOG and he has no authority in this regard. In rebuttal, the complainant has deposed in her evidence that she being the senior teacher is entitled for promotion to next grade, therefore, she had moved application on 14.12.2010 to BOG for her due promotion. Moreover, every employee has a legal right to pursue his case before the concerned authority for due promotion, therefore, moving of application by the complainant for her promotion to BOG and approaching the accused for the subject purpose cannot be alleged as an illegal act. If there was a clash of interest between complainant and accused, then complainant would have withdrawn or not pursued her complaint after the accused had left the school, but she still pursued her complaint for seeking justice which indicates that she was hurt and humiliated by the actions of accused. The available record further reflects that complainant has never moved any complaint for committing sexual harassment against any ex-principal, ex-Chairman of BOG or official of the school except accused, therefore, the point raised by the accused that complainant has filed instant complaint against him with mala-fide intention to get promotion does not convince the prudent mind, hence, regretted.

22. Perusal of the record and the evidence produced before this office by both parties and considering the defence plea taken by the accused, the allegations leveled by the complainant in present complaint reveal, first, that admittedly, the Commissioner Hyderabad vide inquiry report had found the accused guilty, and his verdict was neither challenged nor appealed before the competent forum, and therefore, attained finality which only supports the case of victim with respect to the alleged incident.

23. Second, it is significant to mention that compelling a female subordinate officer or employee to stay at the office after working hours cannot be permitted under any circumstances as the same would amount to violating the labour laws, the Constitution of the Islamic Republic of Pakistan, 1973

(hereinafter referred to as "the Constitution") and human rights, unless paid extra/overtime pay, but subject to the nature of the work and willingness of the employee. Compelling female employees, working in private or public sector, can endanger their safety, making it difficult for them to take care of their families, and even tarnish their dignity, image and character for coming home late, as Pakistani Society is culturally conservative, which makes it impossible for Pakistani women to go out of their homes to work and earn for themselves and their families. Therefore, the Act 2010, aims to provide the women of Pakistan to work and pursue career opportunities without any fear of being victimized and harassed at the workplace.

Accused has simply denied the allegations leveled by the complainant, but he has admitted punishing the complainant after she had submitted her application regarding not staying at the premises after working hours, and her witness who had confronted the accused for his hostile and inappropriate behavior against the complainant in the meeting, by issuing explanation which is sufficient to establish the guilt of the accused, and the veracity of the allegations leveled against him in the present complaint, as whenever he is confronted for his actions he would punish those to deter them as well as everyone else not to question his authority and actions.

24. Third, the complainant has produced Facebook messages as Exs:C-44 to 50 in which accused has intended to establish friendship and close relationship with her as well as used abusive, threatening, derogatory and immoral language while being her superior officer which amounts to *quid pro quo*, and an offence under the Act, 2010.

25. Fourth, with respect to complainant's witness Kousar Sultana as Ex:CW-1/1, she had admittedly, initiated proceedings against the accused by filing a complaint on 28.03.2017, to the Women Protection Cell of Police as Ex:CW-1/2 as well as she was issued explanation by accused dated 11.03.2017 as Ex:A-22 after she had confronted him for

insulting and making derogatory, disrespectful and vulgar remarks against the complainant in the meeting dated 03.03.2017, in presence of all the participants and officials. Therefore, it is sufficient to establish that accused has misused his authority by using foul language for the complainant in the said meeting, and thereafter when he was confronted, he instead of apologizing for his derogatory, demeaning and disrespectful actions, issued explanation to the witness and thereby committed the offence under Act, 2010.

26. Fifth, during the course of the proceedings before this office in present complaint, the accused in his written defence has stated that complainant had sent her marriage proposals to many unmarried male teachers in the past but she failed to attract anyone for the marriage. Admittedly, accused has blatantly made imputations and leveled allegations without any evidence regarding the character of the complainant which only shows that if the accused can use such derogatory language before this office against the complainant then there should be no hesitation in believing that he can use the similar language against other female subordinates for being their superior while shamelessly abusing his authority. Furthermore, the dignity of the victim and her witnesses are protected under the Constitution, and their character, either good or bad, is not a legal defence under the Constitution as well as the Act, 2010.

27. Sixth, further perusal of the record reflects that complainant has stated that accused used to call only lady VPs including herself at his office on the pretext of official meetings and forced them to remain with him at his office for hours without any reason or justification, but due to professional obligations and being subordinate of the accused, she ignored the same and continued to perform her duty. Complainant has further stated that accused used to propose her for marriage and requested for friendship/relationship verbally as well as through online messages on Facebook, WhatsApp and phone calls on her cell phone. She has further stated that accused on

sending text messages on her cell phone number 0300-3021381, WhatsApp and Facebook account, usually after office hours and particularly in evening or late night from his cell phone number 0300-3444473. She has also stated that accused used to share messages, video clips, greetings and wishes regularly, and on phone calls after discussing some school related issues, he started talking about his personal life and marital issues and tried to gain her sympathies. The record further reveals that the accused has not challenged the allegations leveled by the complainant during her cross-examination by putting any suggestion contradicting the stance of complainant regarding calling of lady VPs including herself without any reason at his office for hours.

28. For the foregoing reasons and in the light of the identical case law, it has been established that accused namely Nasim Ahmed Memon has committed sexual harassment to the complainant Mst. Shagufta Shah as envisaged under section 2(h) of the Act, 2010, therefore, accused Nasim Ahmed Memon is penalized under section 4(4)(ii)(c) of the Act, 2010, and is instantly removed from his present post of Chairman, Board of Intermediate and Secondary Education (BISE), Larkano, and he is further penalized under section 4(4)(ii)(e) of the Act, 2010, in the sum of Rs.3,00,000/- (three lacs), and the fine amount shall be paid to the complainant Mst. Shagufta Shah as compensation through this office within 30 days from passing of this order without fail. The office is directed to transmit copy of this order to the Chief Secretary to Government of Sindh, Secretary Universities & Boards Department and the Accountant General Sindh for information and strict compliance of this order in letter and spirit. The compensation amount shall be deducted from the benefits of service of the accused and the compliance report shall be submitted within 30 days without fail through the Director of this office. If the accused fails to pay the fine amount within the stipulated period, the same shall be recovered as land revenue in the terms of the Land Revenue Act, 1967, through the concerned Deputy Commissioner from the moveable and immoveable