

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:

**Mr. Justice Salahuddin Panhwar
Mr. Justice Miangul Hassan Aurangzeb**

CIVIL PETITION NO. 2298 OF 2025

*(On appeal against the judgment dated 18.04.2025
passed by the Islamabad High Court, Islamabad in
Writ Petition No. 2618 of 2023)*

Muhammad Tahir.

... Petitioner

Versus

President of Pakistan and others.

... Respondents

For the Petitioner : Mr. Taimoor Aslam Khan, ASC

For the Respondents : Not represented

Assistance : Muhammad Subhan Malik
(Judicial Law Clerk)

Date of Hearing : 17.10.2025

JUDGMENT

Salahuddin Panhwar, J.— The petitioner seeks leave to appeal against the judgment dated 18.04.2025 rendered by the Islamabad High Court in Writ Petition No. 2618 of 2023, whereby his petition challenging the concurrent findings of the Federal Ombudsperson for Protection against Harassment of Women at the Workplace dated 02.09.2022 and the President of Pakistan dated 09.08.2023 was dismissed.

2. The petitioner served as Assistant Clinical Instructor at the Pakistan Institute of Medical Sciences, Islamabad. A BSc, Nursing student lodged allegations of harassment through a complaint dated 29.09.2018. To protect her privacy this judgment anonymizes the complainant as Ms.K. S. The three-member Inquiry Committee was constituted under section 3(iii)

of the Protection against Harassment of Women at the Workplace Act, 2010 (the Act). After recording evidence, the Committee concluded that no penalty could be imposed. The complainant then approached the Federal Ombudsperson, who held that the Committee had not been properly constituted and conducted a fresh inquiry.

3. Upon recording evidence afresh and considering a Federal Investigation Agency forensic report regarding an audio recording produced by the complainant, the Ombudsperson by order dated 02.09.2022 found the petitioner guilty and imposed the major penalty of removal from service along with Rs.500,000/- as compensation to the complainant. The petitioner's representation before the President of Pakistan under section 11 of the Act was dismissed on 09.08.2023. His writ petition before the Islamabad High Court also met the same fate through the impugned judgment dated 18.04.2025. Hence, the present petition for leave to appeal.

4. Learned counsel submitted that no proper complaint under section 8 of the Act was filed; the Ombudsperson exceeded jurisdiction by treating informal applications as complaints; the orders rest on conjecture rather than evidence; and, since a prior departmental inquiry had not resulted in penalty, fresh proceedings violated the bar against *double jeopardy* in Article 13(a) of the Constitution. It was further urged that the petitioner was condemned unheard and that the concurrent findings are perverse.

5. We have examined the record with care. Prior to embarking upon the merits, it is necessary to state the controlling standards. In leave jurisdiction the Court interferes only where a question of law of public importance arises or where the concurrent findings are shown to be the result of *misreading, non-reading of evidence or perversity*. Concurrent determinations by statutory fora and the High Court are not displaced by a mere

difference of view. Article 13(a) is attracted to successive criminal prosecutions and punishments for the same offence. Departmental or statutory disciplinary proceedings are remedial and regulatory; they do not amount to a criminal prosecution and therefore do not engage the constitutional protection against double jeopardy. Reliance in this regard is placed on *Dr Sohail Hassan Khan Vs DG (Research) Livestock and Dairy Development Department, Punjab (2020 SCMR 1708)*. Where a prior inquiry is shown to be irregular in constitution or procedure, a de novo process before the competent statutory forum is permissible and does not offend finality principles. A complaint under the Act is not restricted by form. Repeated written representations that narrate continuing harassment may, in substance, satisfy the requirement of a complaint and justify cognizance, provided the respondent is given full opportunity to answer the allegations, which is not disputed at all. Due process in this context demands notice, disclosure of material to be relied upon, the right to cross-examine and a reasoned determination. The record reflects compliance with these requirements.

6. Suffice it to say that an instructor charged with clinical and academic supervision stands in a position of trust akin to a fiduciary. The relationship is defined by asymmetry of power, dependence for professional progression and assessment, and the vulnerability of students who rely upon their instructors for access to learning, clinical exposure and references. These structural features create obligations of loyalty, prudence and restraint that are stricter than those owed in ordinary workplaces. They include:

- (a) a duty to avoid conflicts between personal gratification and the educational interests of students;
- (b) a duty not to exploit authority to solicit, normalize or tolerate sexualized or gender-demeaning behavior;

- (c) a positive duty to create and maintain a safe learning environment, including by modelling appropriate boundaries and intervening to prevent harassment by others;
- (d) a duty of confidentiality with respect to students' educational and personal information save as disclosure is required by law or institutional policy; and
- (e) a duty of honesty in institutional processes, including inquiries under the Act.

7. Measured against these duties, misconduct by an instructor towards a student is not merely a breach of discipline. It is a betrayal of institutional trust that corrodes the integrity of the profession, undermines merit-based progression, and deters families from permitting their daughters to pursue education and training. In conservative communities, where parents already face social pressures and logistical hurdles in sending daughters to hospitals, colleges and workplaces, reports of harassment have a chilling effect that is disproportionate. The foreseeable social impact is withdrawal from education, interruption of clinical rotations and lost opportunities. Courts must therefore, apply the Act with vigilance in educational and clinical settings, recognizing the heightened standard that flows from fiduciary-like obligations and the wider societal stakes.

8. At this juncture, we take the prerogative in shedding light on the term "**Sexual Harassment**", it includes unwanted sexual approaches, demand for sexual favors, and other verbal or bodily actions of a sexual kind as per Equal Employment Opportunity Commission (EEOC). United Nations vide (ST/SGB/2008/5) defines it as an improper conduct, either orally or bodily, of any person who is objectionable and unwelcomed for another person. There are two types of "*Sexual Harassment*", tangible (*quid pro quo*) and intangible (*hostile work environment*) sexual harassment. The first one, which is "*Quid pro quo harassment*" occurs when the "*submission to or rejection of*" requests for sexual favors "is used as the basis for

employment decisions affecting" an individual. The second one, hostile work environment involves "severe or pervasive" harassment and hostility that interferes with an individual's work performance e.g the harasser's conduct was so severe and/or pervasive that it altered the victim-employee's work environment by detracting from the employee's job performance, the first type does not even require physical touching and even words, gestures, or visuals creating an intimidating atmosphere are qualified to fall in the definition of the term. The Supreme Court of United States has legally defined "Sexual Harassment" in *Harris v. Forklift Sys., Inc., 510 U.S. 17, 21 (1993)*, that it can include perceptible employment changes in exchange for sexual favors or conduct that is so pervasive or severe, that it creates an abusive working environment for the victim. However, the statutory meaning given to the term "Harassment" in the Act is in the following words:

(h) "harassment" means:—

- (i) any **unwelcome** sexual advance, request for **sexual favours, stalking or cyber stalking or other verbal, visual or written communication or physical conduct of a sexual nature or sexually demeaning attitudes, including any gestures or expression conveying derogatory connotation causing interference with work performance or creating an intimidating, hostile or offensive work environment, or the attempt to punish the complainant for refusal to comply to such a request or is made a condition for employment; or**
- (ii) **discrimination on basis of gender, which may or may not be sexual in nature, but which may embody a discriminatory and prejudicial mind set or notion, resulting in discriminatory behavior on basis of gender against the complainant;**

9. In Pakistan, the Act is grounded in **Articles 14, 25(2) and 37(e)** of our Constitution and reflects Pakistan's international commitments, including the Convention on the Elimination of All Forms of Discrimination Against Women (**CEDAW**). It is appropriate to read Article 14's guarantee of dignity alongside classical and contemporary accounts that treat

dignity as an organizing value of the legal order. The Holy Qur'an affirms innate honor, common origin and the true criterion of esteem, "وَلَقَدْ كَرَّمْنَا بَنِي آدَمْ" We have certainly honored the children of Adam (Al Isrā' 17:70), "يَا أَيُّهَا النَّاسُ إِذْ خَلَقْنَاكُمْ مِّنْ نُفُسْنَا وَاحِدَةً" O mankind, be mindful of your Lord who created you from a single soul (Al Nisā' 4:1), and "إِنَّ أَكْرَمَكُمْ عِنْدَ اللَّهِ أَنْتُمْ" Indeed, the most honored of you in the sight of Allah is the most righteous of you (Al Ḥujurāt 49:13). The Sunnah also operationalizes these commitments into duties of restraint and respect. In the Farewell Sermon the Holy Prophet ﷺ declared the inviolability of life, property and honour, "إِنَّ دِمَاءَكُمْ وَأَمْوَالَكُمْ وَأَعْرَافَكُمْ عَلَيْكُمْ حَرَامٌ" and "كُلُّ مُسْلِمٍ عَلَى مُسْلِمٍ حَرَامٌ دَمُهُ وَمَالُهُ وَعِرْضُهُ" These sources furnish an operational test; whether the act or rule objectifies or degrades the person, invades bodily or decisional autonomy, erases voice in matters vitally affecting them, or denies the conditions necessary for meaningful participation in family, community and civic life. On this test, harassment that weaponizes power imbalances in any place offends dignity in its core.

10. Whereas, Pakistan remains predominantly agrarian, with women constituting a substantial portion of the workforce in farming, livestock, home-based and other informal labour. Agriculture constitutes the largest sector of our economy. Majority of the population, directly or indirectly, is dependent on this sector. It contributes about **24 percent of Gross Domestic Product (GDP)** and accounts for half of employed labour force and is the largest source of foreign exchange earnings as per the **Pakistan Bureau of Statistics¹**. The last conducted survey by Pakistan Bureau of Statistics as to this date categorizing the percentage of labour in agriculture sector is reproduced as under:

¹ (Labour Force Survey 2020-2021 conducted by Pakistan Bureau of Statistics)

47. How employed are distributed by sectors?

Agriculture Both Sexes= 37.4% Male= 28.5% Female=67.9%

Industry Both Sexes= 25.4% Male= 28.5% Female=14.7%

Services Both Sexes= 37.2% Male= 43.0% Female=17.4%

11. According to the 2020 report published by UN Women, numerous jurisdictions, including Kenya, South Africa, Nigeria, Ghana, and Ethiopia, have enacted legislative measures addressing workplace sexual harassment. These legal frameworks are largely consonant with international and regional obligations aimed at safeguarding workers, including those engaged in the informal sector. In India, the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, offers comprehensive protection by explicitly covering informal workers and delineating various forms of prohibited conduct. Likewise, ILO Convention No. 190 concerning Violence and Harassment in the World of Work calls upon member states to legislate and implement effective safeguards to protect all workers, irrespective of the formality of their employment.

12. Comparable legislative or policy instruments exist within the **European Union** under equality and anti-discrimination directives, and similar protections have been gradually introduced in several Latin American and Asian countries to extend safeguards to informal workers. Pakistan has also responded to this evolving international legal consensus. The Protection Against Harassment of Women at the Workplace Act, 2010, as amended in 2022, aims to provide legal redress and a mechanism for complaints that is accessible to women in both formal and informal employment. Notably, the statutory definition of "employee" under section 2(b), clause (f), has been expanded to include individuals working under various forms of engagement, whether regular, contractual, part-

time, freelance or voluntary. This inclusive definition encompasses students, performers, artists, sportspersons, interns, trainees, domestic workers, home-based workers, and apprentices, regardless of remuneration.

13. Furthermore, amendments to clause (g) have introduced sub-clauses (viii), (ix), and (x), thereby broadening the scope of liability to include: (viii) persons fulfilling contractual obligations involving the procurement of services or labour, including freelancers and part-time workers; (ix) those who own or operate online, customer-to-customer, or remote businesses; and (x) households that employ or benefit from the services of home-based workers, irrespective of the nature, duration, or scale of such employment.

14. It is necessary to record a note of grave concern as to the limited reach of the Protection against Harassment of Women at the Workplace Act, 2010. While the 2022 amendments enlarged the statutory definition of “employee” in section 2(b)(f) to include, inter alia, regular, contractual, piece-rate, gig, temporary, part-time and freelance workers, whether engaged through an express or implied contract on a daily, weekly, monthly or hourly basis, and further to include students, performers, artists, sportspersons, interns, trainees, domestic workers, home-based workers and apprentices, whether remunerated or not and whether working on a voluntary basis or otherwise, the operative scope of liability remains constrained by the definition of the “accused” as “an employee or employer of an organisation against whom complaint has been made under this Act”. Agricultural settings, individual farms and households that engage female labour frequently do not meet the statutory conception of an “organization”. The consequence is that women working under landowners, landlords or farmers may fall outside the Act’s complaint and redress architecture, notwithstanding their inclusion in the definition of “employee”. This incongruity is particularly troubling given the socio-economic realities in rural Pakistan, where poverty compels

women and even minor girls to work in arduous field conditions, with heightened exposure to harassment and with limited recourse to protection.

14.1 In this context, guidance from the United Nations and allied international standards is instructive:

- (a) The United Nations General Assembly has acknowledged that legal frameworks on sexual harassment often fail to cover workplaces of domestic workers and migrant domestic workers, and has urged that these gaps be closed.
- (b) The General Assembly has called upon States to take effective measures to prevent and eliminate sexual harassment against women and girls, and to address structural causes and risk factors, including through measures that ensure all workplaces are free from discrimination, exploitation, violence and sexual harassment.
- (c) The General Assembly has further urged States to recognise the importance of protecting labour rights and ensuring safe conditions for women migrant workers and those in informal employment, and to adopt or strengthen measures safeguarding the human rights of women migrant workers, including domestic workers, irrespective of migratory status.
- (d) The Committee on Economic, Social and Cultural Rights affirms that the right to just and favourable conditions of work extends to all, including informal, domestic, self-employed, agricultural, refugee and unpaid workers, and it recognises freedom from violence and harassment, including sexual harassment, as a fundamental element of that right.

14.2 International labour standards reinforce the same imperative:

- (a) **ILO Convention No. 190 on Violence and Harassment** recognises the right of every person to a world of work free from

violence and harassment, including gender-based violence and harassment, and applies across all sectors, formal and informal, to all workers regardless of contractual status.

(b) **ILO Convention No. 189 and Recommendation No. 201** on Domestic Workers note the disproportionate concentration of domestic workers in the informal economy and their particular vulnerability to abuse and discrimination, and call upon member States to ensure protection against all forms of abuse, harassment and violence, and to provide access to dispute resolution mechanisms.

(c) The Sustainable Development Goals commit States to end violence against women and girls by 2030, including targets to eliminate all forms of such violence, to promote decent and safe work for all, to reduce inequalities, and to advance just, peaceful and inclusive societies.

14.3 Taken together, these instruments emphasise the need for comprehensive legal and policy frameworks that meaningfully protect workers in the informal economy from sexual harassment and extend labour rights and protections to all workers, regardless of employment status. The present statutory misalignment between an inclusive definition of “employee” and a restrictive conception of the “accused” warrants urgent legislative attention so that women engaged in agricultural and other informal workplaces receive effective and enforceable protection.

15. From the constitutional perspective, the failure to effectively extend protection to agricultural and informal settings compromises **Articles 14(1), 25(2), 34 and 37(e)** of the Constitution. In *Benazir Bhutto v Federation of Pakistan (PLD 1988 SC 416)* this Court emphasised purposive interpretation to keep fundamental rights alive. In *Darshan Masih (PLD 1990 SC 513)* the State was directed to free the vulnerable from structural exploitation. Two further strands of this Court’s jurisprudence are

directly engaged. First, in *Raja Tanveer Safdar v Mrs Tehmina Yasmeen (PLD 2024 SC 795)* it was authoritatively held that:

"In terms of the 2010 Act, harassment means gender-based harassment and discrimination, which can be sexual in nature. Any action that causes interference with work performance or creating an intimidating, hostile or offensive work environment falls within the definition of harassment under Section 2(h) of the 2010 Act".

16. This construction focuses judicial attention on impact and environment, not merely explicit solicitation. Secondly, in *Muhammad Din v Province of Punjab (PLD 2025 SC 354)* this Court observed that the Protection against Harassment of Women at the Workplace (Amendment) Act, 2022 broadened the definitions of employee, workplace and harassment, extending protection to informal workers, freelancers, interns and trainees, and clarifying that harassment includes gender-based discrimination and sexually demeaning attitudes, whether or not sexual in nature. This interpretive evolution fortifies the duty of all workplaces, including hospitals and educational institutions, to provide safe, respectful environments for women and vulnerable persons. Measured against these principles, the petitioner's conduct was adjudicated through lawful procedures based on evidence and cross-examination. The concurrent findings align with the legislative intent to preserve dignity in learning environments. No violation of due process or miscarriage of justice is evident. No question of law of public importance arises for determination under Article 185(3) of the Constitution. The High Court, in a reasoned judgment, rightly held that the complainant's successive letters and applications constituted a continuing complaint under section 8 of the Act, justifying the Ombudsperson's cognizance. The petitioner was afforded a full and fair opportunity to defend himself. The Ombudsperson and the President each recorded reasoned findings on the basis of evidence, including sworn statements, cross-examination and forensic analysis. These concurrent factual

findings are neither perverse nor unsupported by the record and are therefore not open to interference in leave jurisdiction.

17. For reasons already recorded, leave to appeal is declined and the petition is dismissed. Before parting, it is appropriate to state observations, recommendations and directions so that the protections under the Act are rendered meaningful for all women across Pakistan, in line with international standards.

18. In view of the foregoing, it is observed that:

I. the enlarged statutory definitions require operationalisation and further clarification in order to capture the lived reality of Pakistan's agrarian and informal economy.

II. institutional enforcement remains urban centred and inaccessible to many rural women.

III. illiteracy and poverty sustain a structural imbalance in which women's work is under recognised and harassment under reported, and

IV. the remedial spirit of the Act is undermined by uneven implementation.

19. To effectuate the fundamental rights protected by Articles 9, 14 and 25(2), read with Articles 34 and 37(e) of the Constitution, the following directions are issued to the Federation and the Provinces:

19.1 The Federation of Pakistan, through the Ministry of Law and Justice in coordination with the Ministry of Human Rights and the Provincial Law Departments, shall within six months review and, where necessary, propose amendments to the Act and allied rules to:

(a) expand the definition of “workplace” to include any site, whether formal or informal, where labour or service is performed, including but not limited to fields, farms, households and public spaces incidental to work and training, and

(b) define “employee” broadly to include any person, whether or not under a formal contract, who performs work for remuneration or livelihood, including trainees, students on clinical or field placements, apprentices and home-based workers.

19.2 Each Provincial Government shall establish District and Tehsil level Harassment Protection Cells, under the supervision of the Provincial Ombudsperson, empowered to receive and investigate complaints from women in rural and informal sectors, and to facilitate referrals, evidence recording and witness protection where required.

19.3 Mobile complaint units shall be deployed in agricultural and peri urban districts to enable access for women who are unable to travel to urban centres.

19.4 The Labour and Agriculture Departments shall jointly devise a monitoring framework for enforcement of the Act across agricultural and allied workplaces, ensuring registration, reporting and accountability mechanisms adapted to rural contexts, including seasonal and migratory labour.

19.5 The Ministry of Federal Education and Professional Training and the Poverty Alleviation and Social Safety Division, in coordination with Provincial Education Departments, shall develop targeted programmes to address child labour and rural poverty and to promote literacy and awareness of workplace rights through local councils, Lady Health Workers and credible rural civil society organisations.

19.6 The Police Departments shall receive specialised training on harassment related offences and shall enforce measures to ensure the safe transportation of minor girls to and from educational and training institutions.

19.7 The government shall ensure that the drivers/riders providing transport facilities in educational institutes (whether private or contractual) shall be registered in governmental data and the law enforcement agencies shall not allow any unregistered driver/rider to pick and drop girls from educational institutes. The government shall initiate a permit system for all the drivers/riders providing transport facilities to the educational institutions and shall maintain this record on monthly basis while ensuring that no criminal record holder is permitted to operate as a driver/rider in educational institutes. Additionally, the transport authorities shall ensure that no harassment be caused to the female students in transportation.

19.8 The government shall ensure that all educational institutes in which female students are educated shall have harassment complaint cells and faculty members in that regard shall be designated to hear harassment related matters.

20. Having regard to Article 14 and to the open justice principle, tempered by the need to protect victims of sexual harassment and to encourage reporting, it is directed that:

(a) for all public versions of this judgment and any future reporting or citation, the complainant shall be anonymised as Ms K.S., and all identifying particulars shall be redacted by the Registry.

(b) no person shall publish, broadcast or disseminate any material likely to lead to the identification of Ms K.S. or of any student witnesses, save as permitted by a further order of this

Court or by the Ombudsperson seized of enforcement proceedings, and

(c) in any remitted or collateral proceedings, the forums concerned shall consider in camera hearings and controlled access to sensitive evidence in order to preserve privacy and dignity. These observations and directions are of general application.

21. These directions do not disturb the concurrent findings or the outcome inter partes in the present matter.

22. A copy of this judgment be sent to the Federal Ombudsman and the Provincial Ombudsman of all provinces for their guidance.

22. For the foregoing reasons, leave to appeal is declined, and the petition is dismissed. These are the reasons for our short order dated 17.10.2025, which reads as under:

"For reasons to be recorded later on, leave is declined and petition is dismissed."

I agree with the ratio of the judgment to the extent that the petition is dismissed.

Judge

Judge