

Form No: HCJD/C-121
ORDER SHEET
ISLAMABAD HIGH COURT
ISLAMABAD

W.P No. 3563/ 2017

Dr. Zubaida Chaudhary
Versus
The President Islamic Republic of Pakistan, etc

S.No. of order/ Proceeding	Date of hearing	Order with signature of Judge, and that of parties or counsel, where necessary.
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03-03-2022 Ms. Shaista Zohra, Advocate for the petitioner.
Syed Muhammad Tayyab, Deputy Attorney General.

ATHAR MINALLAH, CJ.- The petitioner, Dr. Zubaida Chaudhary had filed a complaint alleging harassment caused to her by the respondents. The departmental complaint filed by her was not processed. Thereafter, she exercised her option under subsection (1) of section 8 of the Protection against Harassment of women at the Workplace Act, 2010 (hereinafter referred to as the "**Act of 2010**"). The learned Ombudsman vide recommendations, dated 20.03.2017 allowed the complaint and imposed minor penalty of censure against the respondents, in addition to payment of fine of Rs.1,00,000/- per person. The petitioner as well as the respondents filed their respective representations under Section 9 of the Act of 2010.

2. The learned counsel for the petitioner has been heard at length. She has mainly argued that the President while deciding the representation had not

applied his mind, rather, it was decided by an officer of the Secretariat.

3. The learned Deputy Attorney General, on the other hand, has contended that a retired judge of the Supreme Court has been appointed as consultant who decides the representations.

4. A plain reading of the Act of 2010 and the Federal Ombudsmen Institutional Reforms Act, 2013 (hereinafter referred to as the "**Act of 2013**") shows that the worthy President has not been empowered to delegate his power to another official to the extent of deciding representations under section 9 of the Act of 2010. A combined reading of both the aforementioned statutes explicitly contemplate that a representation may be processed by the office of the President by a person who is qualified to be a judge of the Supreme Court or has been Wafaqi Mohtasib or Federal Tax Ombudsman. This has been provided under subsection (4) of Section 14 of the Act of 2013. However, processing of a case does not include taking a decision regarding the grievance raised in the representation. The power to decide a matter or delegation thereof, unless expressly provided in the statute, cannot be exercised by a person other than the designated authority.

5. Pursuant to processing, the representation is required to be placed before the worthy President for the latter's consideration and decision. The clear language of

the two statutes does not empower the authority processing the representation to decide the same nor the worthy President has been given the power to delegate the decision making authority to any other person or official. The President is, therefore, required to consider and decide the representation processed by the latter's Secretariat. In the case in hand, it is not disputed that the representation was decided by a person who had processed the case instead of the worthy President.

6. For the above reasons, the impugned order, dated 17.07.2017 is declared to have been passed without authority and jurisdiction, contrary to the scheme contemplate under sections 9 and 14 of the Act of 2010 and the Act of 2013, respectively. Consequently, the impugned order, dated 17.07.2017 is hereby set aside. The representation shall be treated as pending and after it has been processed, the case shall be placed before the worthy President for the latter's consideration and decision.

7. The petition stands disposed of in the above terms.

(CHIEF JUSTICE)