

ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P. No.2653 of 2019
Arshad Malik
Versus
Learned Federal Ombudsman for Protection against Harassment of
Women at Workplace and another

S. No. of order / proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	11.11.2019	Syed Muhammad Bilal Ahmad, Advocate for the petitioner. Mr. Arshid Mehmood Kiani, learned Deputy Attorney-General.

Through the instant writ petition, the petitioner, Arshad Malik, who is serving as the Chief Executive Officer of Pakistan International Airlines Corporation Ltd., impugns the order dated 17.06.2019 passed by respondent No.1 (Federal Ombudsman for Protection against Harassment of Women at Workplace), whereby his application for deletion as the respondent in the proceedings before respondent No.1, was dismissed.

2. Learned counsel for the petitioner submitted that respondent No.1’s jurisdiction is circumscribed by the provisions of the Protection against Harassment of Women at the Workplace Act, 2010 (“the 2010 Act”); that the complaint submitted by respondent No.2 before respondent No.1 does not allege any “*harassment*” against the petitioner within the meaning given to the said term in Section 2(h) of the said Act; and that the proceedings to the extent of the petitioner are, therefore, *coram non-judice*. Learned counsel for the petitioner prayed for the instant petition to be allowed in terms of the relief sought therein.

3. On the other hand, the learned Deputy Attorney-General submitted that the reason why

the petitioner should continue to remain a party in the proceedings before the learned Ombudsperson is that he was required to take measures to ensure that no sexual harassment in the organization takes place.

4. I have heard the contentions of the learned counsel for the petitioner as well as the learned Deputy Attorney-General and have perused the record with their able assistance.

5. The 2010 Act was enacted to make provision for the protection against harassment of women at the workplace. An inquiry committee constituted in organizations under Section 3(1) of the 2010 Act and the Ombudsman appointed under Section 7 of the said Act can inquire into complaints submitted by the complainants on being aggrieved by an act of harassment. The word *“harassment”* has been defined in Section 2(h) of the 2010 Act in the following terms:-

“harassment” means any unwelcome sexual advance, request for sexual favors or other verbal or written communication or physical conduct of a sexual nature or sexually demeaning attitudes, 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.”

6. Respondent No.2 candidly admitted in her complaint before respondent No.1 that her grievance is pertaining to the terms and conditions of her service inasmuch as she was not permitted to serve as a Stewardess on international flights. I have gone through respondent No.2's complaint filed before respondent No.1 and do not find any allegation of *“harassment”* as defined in Section 2(h) of the 2010 Act against the petitioner. Although in the said complaint, respondent No.2 has levelled

allegations of harassment against Aamir Bashir, General Manager but the allegations against him are not of “*harassment*” as defined in Section 2(h) of the said Act. Under the provisions of the 2010 Act, an inquiry by the inquiry committee or the Ombudsperson can only be against the person against whom the complainant makes allegation of “*harassment*” as defined in Section 2(h) of the said Act, and none other. Therefore, I am of the view that respondent No.1 erred by dismissing the petitioner’s application for the deletion of his name from the array of the respondents in respondent No.2’s complaint before respondent No.1.

7. Should respondent No.1 feel the need for the petitioner to furnish any information or produce any document which in its opinion is relevant and helpful in the conduct of the investigation, it may require the petitioner to do so pursuant to Section 8(4) of the 2010 Act.

8. In view of the above, the instant writ petition is allowed and the impugned order dated 17.06.2019 is set-aside.

(MIANGUL HASSAN AURANGZEB)
JUDGE

Ahtesham*