

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

C.P No.D-4387 of 2019

**[Fahad Faruqui v. Governor of Sindh through Principal Secretary,
Secretariat of Governor & others]**

Order with signature of Judge(s)

Present:
Mr. Justice Muhammad Iqbal Kalhoro
Mr. Justice Muhammad Osman Ali Hadi

Priority

1. For hearing of CMA No.19159/2019
2. For hearing of main case

08-05-2025

Ms. Amna Usman, Advocate for the Petitioner
Ms. Saima Imdad, AAG

ORDER

Muhammad Iqbal Kalhoro, J:- Against Petitioner an Inquiry Committee conducted an inquiry into allegations of sexual harassment leveled by Respondent No.4, who was a student, whereas, the Petitioner was teacher at Shaheed Zulfiqar Ali Bhutto Institute of Science and Technology (SZABIST), found him guilty and recommended his dismissal. Acting upon recommendations, Petitioner was dismissed. He challenged the same before the Provincial Ombudsman, Sindh, the Protection against Harassment of Women at the Workplace (“the Ombudsman”). By a decision dated 23.10.2018, the Ombudsman dismissed Appeal of the Petitioner¹. Petitioner challenged the order before the Governor, Sindh under Section 9 of the Protection against Harassment of women at the Workplace Act, 2010 (“Act, 2010”). The Appeal/Representation² has been dismissed by the Governor, Sindh by impugned order dated 29.03.2019 holding that the Governor has the power to entertain appeals against orders passed by the Ombudsman under Section 8(5) of the Act, 2010, whereas, the order passed by the Ombudsman was under Section 6(3) of the *Ibid* Act.

2. The case of the Petitioner is that he was even not afforded an opportunity to explain his claim and without holding any hearing etc. a communication was conveyed to him through the impugned letter that

¹ Appeal No.01(KHI-S)/2017.

² Dated 22.11.2018.

his Appeal/Representation has been dismissed. According to learned counsel for the Petitioner the Governor was required to afford an opportunity of hearing and decide the case on merits rather than on technicalities.

3. Learned AAG has expounded that at least a right of hearing should have been extended to the Petitioner.

4. We have heard the parties and seen the proceedings the petition is emanating from, including the order passed by the Governor, Sindh. It is apparent that without affording an opportunity of hearing the Appeal/Representation of the Petitioner was dismissed by the Governor with a view that the same Appeal was not entertainable in view of the provisions of the Act, 2010 as explained above. However, in our view this was not a proper way to dismiss the Appeal filed against the order of the Ombudsman declining the case of the Petitioner challenging his dismissal. The Governor should have required the Petitioner to satisfy him about maintainability of the Appeal first before proceeding to dismiss the same on technicalities, as the case of the Petitioner is not only rooted in law, but in infirmities in reaching the conclusion on examination of facts. It is a trite law that the cases should be decided on merits rather than on technicalities. In our view, the Governor had the power to hear the Appeal by considering the order by the Ombudsman to have been passed under sub-section (5) of Section 8 as the Petitioner had lost his service on the set of allegations leveled by Respondent No.4, which has substantially changed course of his life and any future prospect in this regard.

5. We therefore, with consent, *set aside* the impugned order dated 29.03.2019 and remand the matter to the Governor, Sindh to afford an opportunity of hearing to the Petitioner, decide his jurisdiction as well as, if necessary, merits of the case of the Petitioner within a reasonable time.

The petition is accordingly disposed of.

JUDGE

JUDGE