ORDER SHEET.
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

I.C.A.No.24 of 2017
Haji Anwar Baloch and others
Versus
Learned Ombudsman for Protection against Harassment of Women at the Work Place, Islamabad etc

S. No. of order / proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	18.04.2017.	**Mr. G. M. Chaudhry, Advocate for the appellants.**

Through the instant Intra Court Appeal, the appellants, who are officers at the National Bank of Pakistan ("NBP"), impugn the order dated 09.12.2016, passed by the learned Judge-in-Chambers, whereby W.P.No.4347/2016 was dismissed *in limine.*

2. The appellants, in the said writ petition had challenged order dated 22.11.2016, passed by the learned Ombudsman for Protection against Harassment of Women at the Workplace (respondent No.1). Vide the said order dated 22.11.2016 respondent No.1 had dismissed the appellants' objections to the maintainability of the complaint against the appellants submitted by Saeeda Begum (respondent No.2) under the provisions of the Protection against Harassment of Women at the Workplace, Act, 2010 ("the 2010 Act"). Respondent No.2's said complaint is still pending adjudication before respondent No.1.

3. Learned counsel for the appellants submitted that on 30.06.2015, respondent No.2 filed a complaint before the Regional Head of NBP against the appellants alleging that she was harassed by them at the work place; that in her complaint, respondent No.2 had requested the Regional Head of NBP to probe

into the matter and take action against the appellants in accordance with the Staff Service Rules and Code of Conduct; that vide office order dated 10.07.2015, Mr. Ghulam Murtaza Baloch was deputed to conduct an investigation regarding the complaint submitted by respondent No.2; that on 15.10.2016, respondent No.2 submitted a complaint before respondent No.1 against the appellants alleging that she had been harassed by them at the workplace; that vide notice dated 02.02.2016 the appellants were directed by respondent No.1 to appear in person or through a representative before respondent No.1 on 08.11.2016; that the appellants raised objections to the maintainability of respondent No.2's complaint before respondent No.1; that vide order dated 22.11.2016 the appellants' objections to the maintainability of the complaint were spurned by respondent No.1; that on 26.11.2016, the appellants filed W.P.No.4347/2016 before this Court praying for the order dated 22.11.2016 to be set-aside; that vide impugned order dated 09.12.2016, the learned Judge-in-Chambers, dismissed the said writ petition; and that the said order dated 09.12.2016 has been impugned by the appellants in the instant Intra Court Appeal.

4. Learned counsel for the appellants further submitted that the appellants could not be subjected to two simultaneous inquiries /proceedings; that vide letter dated 10.07.2015, the management of NBP had correctly entrusted the investigation of the matter to Mr. Ghulam Murtaza Baloch; that during the pendency of such an investigation,

respondent No.2 could not file another complaint before respondent No.1; that respondent No.1 could not proceed with respondent No.2's complaint in the presence of investigation being carried out by the Investigating Officer at NBP; that under Section 8 of the 2010 Act, a complainant had the option to either file a complaint before respondent No.1 or the Inquiry Committee; and that since the matter pertaining to respondent No.2's complaint was already pending before an Investigating Officer, respondent No.2 could not file a complaint before respondent No.1. Learned counsel for the appellants prayed for the impugned order dated 09.12.2016 to be set-aside.

5. We have heard the contentions of the learned for the appellants.

6. The record shows that on 30.06.2015 respondent No.2 filed a complaint before the Regional Head of NBP against the appellants alleging that they had harassed her at the work place. In her complaint, respondent No.2 had requested the Regional Head of NBP to probe into the matter and take action against the appellants. Vide office order dated 10.07.2015, an Investigation Officer was deputed to conduct an investigation regarding the complaint submitted by respondent No.2. On 15.10.2016, respondent No.2 submitted a complaint before respondent No.1 against the appellants alleging that they had harassed her at the workplace. Vide notice dated 02.02.2016, the appellants were directed to appear before respondent No.1. Vide order dated 22.11.2016, the appellants' objections to the maintainability of the complaint were

spurned by respondent No.1. On 26.11.2016, the appellants filed W.P.No.4347/2016 before this Court praying for the order dated 22.11.2016, to be set-aside. Vide impugned order dated 09.12.2016, the learned Judge-in-Chambers, dismissed the said writ petition. The appellants in the instant Intra Court Appeal have impugned the said order dated 09.12.2016.

7. Learned counsel for the appellants' primary argument is that in the presence of the investigation being carried out by the Investigation Officer (Mr. Ghulam Murtaza Baloch), who had been deputed to conduct an investigation into the complaint made by respondent No.2 against the appellants, respondent No.2 could not have filed a complaint on the same subject matter before respondent No.1. We cannot bring ourselves to agree with the contention of the learned counsel for the appellants for the simple reason that respondent No.2's complaint against the appellants was not pending before an "Inquiry Committee" constituted by the NBP in terms of Section 3(1) of the 2010 Act. Section 3(1) of the 2010 Act mandates that each organization shall constitute an Inquiry Committee within 30 days of the enactment of the 2010 Act to inquire into complaints made under the said Act. Furthermore, it is provided that that such an Inquiry Committee shall consist of three members one out of whom is to be a woman. Learned counsel for the appellants did not dispute that NBP had not constituted such an Inquiry Committee and that respondent No.2's complaint against the appellants was not pending before such a

Committee. The mere fact that an officer had been deputed to conduct an investigation with respect to the complaint submitted by respondent No.2 against the appellants did not bar respondent No.2 from filing a complaint against the appellants before respondent No.1. Since respondent No.2's complaint was not before an "Inquiry Committee" constituted pursuant to Section 3(1) of the 2010 Act, we are of the view that Section 8(1) of the 2010 Act, did not bar respondent No.2 from preferring a complaint before respondent No.1.

8. In view of the above, this appeal being without any merit, is dismissed in *limine*. There shall be no order as to costs.

(AAME R FAROOQ)
JUDGE

(MIANGUL HASSAN AURANGZEB)
JUDGE

M.S.Zaki.

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