

**Complaint No. 1(227)/ 2015-FOS.**

1. Facts of case are that on 04.09.2015 a complaint was filed by Benish Gull against four persons namely Asadullah, Amir Jamil, Zeeshan Malik and Atif Javed all employees of PIA. During proceedings of that complaint report was received from Management of PIA that they had concluded inquiry proceedings conducted against these opponents and as per inquiry report Zeeshan Malik appellant was penalized with letter of censure and demotion to lower pay group for a period of one year. Asadullah and Amir Jamil were penalized with letter of censure whereas Atif Javed as per report seems to have been exonerated. In view of report of inquiry committee complaint filed by Benish Gull was disposed of by order dated 04.11.2015.
2. Against decision of inquiry committee which was taken on record by this office of FOS with concluding effect, appellant has preferred this appeal on ground that he did not do anything alleged against him in present case on his own but was following instructions of management. According to him he has followed instructions of management as well as of circular issued with consent of Management on 13.11.2014 by MFS whereby crew were informed that their "fitness on phone will not be accepted. Crew will report scheduling during office time otherwise fitness will not be considered. Strict compliance is required".
3. It is further stated that as Benish Gull had not submitted her fitness certificate within required time and as per instruction given in circular therefore her attendance were not marked.
4. It is further alleged by appellant that on 09.12.2015 complaint of complainant Mst. Benish Gull to Secretary Aviation Pakistan International Airline against base incharge ISS Amir Jamil, appellant Zeeshan Malik and CBA personnel i.e. FS Asadullah, Ikramullah and FS Atif Javed was

received in the office of PIA on 15.12.2015. No opportunity of hearing was provided to appellant, he was condemned unheard. Furthermore inquiry proceedings which were started at Rawalpindi, without no justification were transfer to Karachi where again it was impossible for appellant to produce his witnesses and with this bias act he was illegally and unnecessary penalized for act which were not committed by him.

5. Heard parties, my findings are as under:

Grievance of appellant is that during inquiry proceedings he was condemned unheard and this fact somehow find support from inquiry report dated 05.08.2015. It is stated that on 20.04.2015 inquiry was fixed at Rawalpindi but as respondent Benish Gull had serious reservation on conduct of inquiry therefore in interest of justice and fair play it was decided to hold another inquiry on 06.05.2015 at Karachi.

6. It is not understandable that if respondent No. 2 Benish Gull had reservation on inquiry committee constituted on 20.04.2015, instead of constituted another impartial inquiry committee why matter was transferred from Rawalpindi to Karachi which apparently was not a facilitating position for parties, as stated by appellant that because of transfer of inquiry committee to Karachi he was unable to produce himself and his witnesses and was condemned unheard. Further objection is not only on part of appellant, but respondent No. 2 Benish Gull has also shown her reservation on shifting of inquiry from Rawalpindi to Karachi and her complaint has also reproduced in para 6 of inquiry report.

7. Anyhow while penalizing appellant it is observed by inquiry committee that complainant (Benish Gull) has alleged that her name from roster was removed by appellant on ground that she failed to submit her fitness certificate in accordance with circular dated 13.11.2014. Taking statement of appellant that he followed circular of 13.11.2014, it was assumed by members of inquiry committee that he has confessed his guilt of removal

of name of complainant from roster. On basis of that appellant was penalized but while observing that neither circular issued on 13.11.2014 by MFS has been discussed to be wrongly issued or it does not exist. Learned representative for PIA present before this forum has also tried to discard this circular of 13.11.2014 but when he was asked that if this circular was not in existence or has been wrongly issued. Had management taken any action against author of this circular which is been followed from 13.11.2014 till date when Benish Gul had submitted her fitness certificate before Sohaila Kiani on 05.12.2014. He was also not able to reply that if this circular was not legally issue why email was sent by Assistant Management Monitoring Rakshanda through Base Incharge on 13.01.2015 stating that "as per management decision do not detail AH Benish Gull at any flight till she submits new fitness certificate...". The same instructions were communicated to AH Beenish Gull through letter dated 13.01.2015 placed by PIA representative himself as Annexure N10 issued by Base Incharge ISB.

8. It is also an admitted position that Base Incharge i.e. Amir Jamil is responsible person for assignment of duty, how this duty was shifted from Base Incharge to appellant has not been explained in clear terms. Learned representative of PIA states that all this charge of job was done on verbal orders, these argument with reference to an organization like of PIA is not acceptable, however learned representative for PIA has referred an email issued on 12.06.2014 which shows that from 12.06.2014 appellant Zeeshan Malik was given charge of Incharge Scheduling by General Manager Flight Services. In spite of query learned representative for PIA was unable to answer that whether duty assigned to a particular person i.e. Base Incharge can be transferred to another person serving as Flight Service Officer and whether the officers changing these duties was empowered to delegate charge of Base Incharge to another person in absence of any rule or authority. In such circumstances issuance of circular dated 12.06.2014 apparently is not in accordance to rule and

regulation of PIA. Further in circumstance when no opportunity of hearing was provided to appellant to plead his case, circular dated 13.11.2014 and email dated 13.01.2015 issued by Base Incharge and letter of Base Incharge ISP to Respondent No. 2 Benish Gull are sufficient proof of fact that removal of name of respondent No. 2 Benish Gull from roster was not because of any personal act of appellant but was decision of management.

9. In view of above I hereby set aside order passed on 05.08.2015 by inquiry committee only against Zeeshan Malik at present designated as Scheduling Incharge and allow his appeal as prayed.
10. Parties be informed accordingly.