

IN THE HIGH COURT OF SINDH AT KARACHI

C. P. No. D – 4002 of 2025

[Muhammad Nadeem Khan *versus* Federation of Pakistan and 3 others]

Present:

Mr. Muhammad Faisal Kamal Alam, J.

Ms. Sana Akram Minhas, J.

Date of hearing : 16.10.2025.

Petitioner : Muhammad Nadeem Khan, through M/s. Zamir Hussain Ghumro and Faizan Hussain Memon, Advocates.

Respondents No.1 : Federation of Pakistan and 2 others through Mr. Muhammad Akbar Khan, Assistant Attorney General for Pakistan.

Respondent No.4 : Shaikh Zahid Masood, through Mr. Mukesh Kumar Khatri, Advocate.

ORDER

Muhammad Faisal Kamal Alam, J: Through this Petition, the Petitioner has challenged the Fact Finding Inquiry Report dated 12.05.2025, recommending disciplinary proceeding, besides the impugned Order dated 30.07.2024, suspending the Petitioner for 120 days.

2. Mr. Zamir Hussain Ghumro, Advocate, assisted by Mr. Faizan Hussain Memon, Advocate, argued that the disciplinary proceeding against the present Petitioner should be quashed as its foundation is faulty, due to the reason that the income tax refund applications of one Ikramuddin [sole proprietor of Wali Khan Trading Company] for the tax years 2018, 2019, 2020, 2021 and 2023, under Section 170 of the Income Tax Ordinance, 2001 [the “**Ordinance 2001**”], has been upheld in complaint proceeding before the Federal Tax Ombudsman [“**FTO**”], so also by the Appellate Tribunal Inland Revenue [Special Division Bench Karachi] vide Order

dated 13.12.2024. States that ongoing disciplinary proceeding is tainted with *mala fide* and main objective is to ruin the unblemished career of the Petitioner. Has cited the Judgment of the Honourable Supreme Court reported in **1988 S C M R 691** [*M.A. Rahman versus Federation of Pakistan and others – M.A. Rahman Case*], to address the arguments on maintainability of this Petition, besides, **2014 P L C [C.S.] 1363** [*Syed Muhammad Abbas Rizvi and others versus Federation of Pakistan through Secretary Establishment Division, Islamabad and others – Abbas Rizvi Case*]. Argues that because there is no final Order, therefore, hierarchy mentioned in the Service Rules cannot be invoked and since no alternative remedy is available, therefore, Petitioner has invoked the Writ Jurisdiction of this Court.

3. Mr. Muhammad Akbar Khan, learned Assistant Attorney General and Mr. Mukesh Kumar Khatri, Advocate appearing for Respondent No.4, have opposed this Petition on the strength of Parawise Comments. Learned Counsel for FBR states that Charge Sheet has been issued but the Petitioner under the garb of this Petition is avoiding to appear before the Authority, which fact is disputed by the Petitioner's counsel. The Counsel has defended action of the Respondents-FBR and refers to his Paragraph-4 of the Parawise Comments, that Petitioner issued a favourable Show Cause Notice under Section 221 of the Ordinance 2001 and certain material facts were not confronted to the above named Taxpayer, which resulted in the loss of revenue to the public exchequer.

4. Arguments heard and record perused.

5. The Fact Finding Inquiry Report is available in Record in which disciplinary action against the Petitioner has been recommended together

with other officials of the Respondents-FBR, including Commissioners and Additional Commissioners.

6. Decisions [*ibid*] given in other proceedings are also considered. The learned FTO has observed that the Respondents filed written response in which they have stated that tax refunds of the above Taxpayer are under process, upon which the FTO recommended / directed to initiate credit of determined refunds amount into the Bank Account of the above Taxpayer within 45 days, upon which a Representation was filed before the President Secretariat [Public], which was disposed on the Statement of Respondents-FBR that the said refund process Order would also be challenged in other proceeding.

7. The second set of proceeding initiated by Respondents-FBR eventually was decided by the learned Tribunal [*supra*], which is now under challenge by the Respondents before this Court in the Income Tax Reference(s) No.57 to 61 of 2025 [*pages-263 to 289 of Court File*].

8. The Judgment of the Hon'ble Supreme Court in M.A. Rehman Case, is distinguishable, because (*a*) it was preferred against the Judgment of Federal Service Tribunal against the Decision of dismissal from service [of petitioner] which route / remedy, the present Petitioner has not taken on the ground stated in his arguments above; and (*b*) in the referred case the charge against the appellant was of misconduct while in the present *Lis* the Petitioner has been charged with multiple grounds including inefficiency and corruption; *whereas*, second Judgment in Abbas Rizvi Case, is also distinguishable for the reason that it pertains to implementation of Notification relating to encadrement to the Police Service of Pakistan in terms of the Service Rules.

9. Although the arguments of Petitioner's Counsel may have carried weight that certain charges enumerated in the Charge Sheet have been specifically decided in the Decision of the Appellate Tribunal [*ibid*], but, we are of the considered view that the recent Judgments of the Hon'ble Supreme Court have taken a consistent view with regard to disciplinary proceeding against the Civil Servants, which is, that even if it is challenged on the basis of *mala fide* or *coram non judice*. Apex Court in the Decision of *Ahmad Ullah and others versus District Education Officer (Male), Buner and others* reported in **2024 S C M R 2004**, has held that constitutional bar under Article 212 will exclude judicial review jurisdiction of this Court under Article 199 of the Constitution, if the issue about the terms and conditions of service of any civil servant. With regard to the arguments that no final Order is passed, hence, no department remedy is available, is also not tenable, because, disciplinary proceeding is still *sub judice* and has not been concluded.

10. In view of the above discussion, we do not find any justification to interfere in the ongoing disciplinary proceeding, but observe that Competent Authority while concluding the disciplinary proceeding expeditiously, should take into account those facts / charges, which have been already decided by the Appellate Tribunal.

11. In view of the above terms, this Petition stands disposed of along with all pending application(s), if any.

Judge

Judge

Karachi.

Dated: 27.10.2025.

Riaz / P.S.