

HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

CP No. D- 735 of 2023

[Rajab Ali Zaur v. Federation of Pakistan & Others]

BEFORE:

JUSTICE ADNAN-UL-KARIM MEMON
JUSTICE RIAZAT ALI SAHAR

Petitioner: Through, Mr. Ghulamullah Chang, Advocate
Respondents National Bank through Ch. Azharullah Advocate
Mr. Ghulam Abbas Sangi, Asst. Attorney General

Date of hearing:
& Decision: 18.11.2025

ORDER

ADNAN-UL-KARIM MEMON, J - The Petitioner through this Constitutional Petition has prayed to declare the impugned dismissal order dated 03.01.2019 illegal, void without lawful authority, and direct his reinstatement with all consequential benefits.

2. The case of the petitioner is that he joined the National Bank of Pakistan (NBP) as a Temporary G. Chowkidar on 01.09.1998, confirmed on 01.10.2008, promoted to OG-III on 01.01.2012 and to OG-II on 01.01.2015. He was given a rating about his performance as “outstanding” in 2013 and “very good” in 2014 and received letters of appreciation; that due to his fast promotions, he became a target of departmental jealousy; he was first charge-sheeted on 07.07.2017 for alleged fraud of Rs. 1,30,00,000 at NBP Tando Muhammad Khan Branch, a branch where he was never posted. The allegations were found to be false, but he was transferred to Phalia, Punjab. A second charge sheet dated 23.11.2017 accused him of misappropriating Rs. 7,514,000 at NBP Badin Branch through four entries. During the inquiry, three entries (made through IDs of other employees) were found unrelated to him, and he was held responsible only for one entry of Rs. 1,463,000 made through his user ID. The petitioner explained that it was an inadvertent error due to newly introduced CBA system, for which no training was provided. All entries were reversed and the bank suffered no loss. The Inquiry Officer confirmed that no evidence of misappropriation in the three entries. Petitioner is responsible for only one entry. Signatures on the alleged deposit slip and confessional statements were found bogus. Despite this, the petitioner was dismissed from service on

03.01.2019 on the allegation of misappropriating of Rs.1,463,000. His appeal dated 30.01.2019 was dismissed on 06.12.2019 without reasons. Review appeals dated 28.12.2019 and 18.09.2020 remained undecided. The petitioner approached the Federal Service Tribunal by filing Appeal, which was dismissed on the ground of maintainability leaving the Petitioner at liberty to approach the competent forum, hence this petition.

3. Learned counsel for the petitioner submitted that the impugned dismissal order is illegal, arbitrary, and without any evidence of loss to the Bank, and is contrary to the Bank's own rules. It was submitted that the proceedings were initiated with mala fide intent as a result of departmental vendetta, following earlier unsubstantiated allegations. The petitioner's counsel highlighted that only one entry was mistakenly made due to lack of training on the newly introduced CBA system, which was subsequently reversed before the inquiry, and that no actual misappropriation occurred. The dismissal of the petitioner after 21 years of unblemished service was thus grossly disproportionate. It was further submitted that Respondents 4 & 5, not being the appointing authority for the post of OG-II, lacked jurisdiction to issue the dismissal order. The petitioner was never issued any explanation or notice prior to the Show Cause-Notice, indicating pre-determined malice. The Bank's actions, therefore, violated principles of natural justice and procedural safeguards, and amounted to discrimination in violation of Article 25 of the Constitution. Counsel emphasized that the inquiry

4. Learned counsel for respondent-National Bank of Pakistan submitted that NBP Service Rules are non-statutory; therefore, employees are governed by Master & Servant principles and writ jurisdiction is not available. The legality of NBP (Staff Service) Rules, 2021 is sub-judice before Peshawar High Court; similar matters were decided by Islamabad and Lahore High Courts declaring NBP Rules 2021 non-statutory. Therefore, petition is not maintainable. The petition suffers from laches, as the dismissal of the petitioner occurred on 03.01.2019 and petition was filed after more than 4 years. Petitioner approached wrong forums beyond limitation; delay is not excusable. Disputed facts cannot be adjudicated under constitutional jurisdiction. Only one appeal is provided under Bank Rules; review is not recognized and petitioner concealed this fact. Court lacks jurisdiction as service rules are non-statutory. Petitioner has failed to show infringement of any legal / constitutional right. Misappropriation of public money is a serious offence; petitioner admitted guilt in inquiry; dismissal was imposed after due process. On laches, delay in approaching wrong forum, on misappropriation and breach of trust, on employer's prerogative in deciding punishment, on validity of dismissal even if only one charge is proved. In support of his contention, learned counsel relied upon (1) Muhammad Din v. Abdul Ghani and another (2012 SCMR 1004); (2) Secretary Schools Education, Government of Punjab and others v. Asghari Begum and another (2023

PLC (C.S) 214); (3) Ex. Col. Muhammad Azad Minhas and another v. Federation of Pakistan through Secretary Ministry of Defence and others (**PLD 2024 Supreme Court 235**); (4) Azizullah Bhayo v. Chief Executive Officer, QESO, Quetta and 5 others (**2022 PLC 49**); (5) Izzat Baig Awan v. Habib Bank Limited (**2004 SCMR 98**); (6) Nasir Ahmed Pathan & another v. The Muslim Commercial Bank Ltd & others (**SBLR 2008 SC 79**); (7) Allah Ditta v. Deputy Post Master General (Admn.) Office of the Post Master General, Northern Punjab Circle, Rawalpindi and another (**2023 SCMR 770**); (8) Postmaster General, Karachi and another v. Arshad Ali (**2022 SCMR 1796**); (9) Federation of Pakistan through Secretary Finance Government of Pakistan and others v. Khalid Javed (**2011 PLC (C.S.) 954**); (10) MCB Bank Limited v. Ghulam Mustafa Channa (**SBLR 2007 Sindh 944**); (11) Sakhib Zar v. Messrs K-Electric Limited and others (**2024 SCMR 1722**); (12) Muslim Commercial Bank Ltd, through its General Attorney and another v. Amir Hussain and another (**NLR 1995 TD (Labour) 342**) & (13) Habib Bank Limited v. Mussadiq Hussain and 2 others (**1992 PLC 1109**).

5. After hearing the parties and perusing the available record, it is evident that the petitioner was dismissed from service on the allegation of misappropriating Rs.1,463,000/–, although the inquiry itself concluded that three out of four entries were not attributable to him, and the remaining entry stood fully reversed without causing any financial loss to the Bank. The findings further indicate that the alleged confessional statements and signatures were disputed, and the petitioner consistently maintained that the error occurred due to lack of training on the newly introduced CBA system. Despite 21 years of unblemished service and absence of proven loss, the extreme penalty of dismissal was imposed without proper reasoning, without adherence to procedural safeguards and by an authority lacking competence under the Bank's own hierarchy. The appellate order is similarly non-speaking while review petitions remained pending without adjudication.

6. The objections of the respondents regarding maintainability, laches and disputed questions of fact are misconceived in the circumstances, as the petitioner has demonstrated violation of fundamental rights, lack of jurisdiction, breach of natural justice and *mala fide* exercise of departmental authority—issues that fall within the constitutional domain. The plea that the dismissal was justified due to alleged misappropriation is unsupported by the inquiry record, which negates any element of dishonest intention.

7. Accordingly, the petition is allowed. The impugned dismissal order dated 03.01.2019, the appellate order dated 06.12.2019 and all consequential actions are hereby set aside. The petitioner shall be reinstated in service with all back benefits and consequential rights. The respondents are directed to comply with this judgment within sixty (60) days in accordance with law.

JUDGE

JUDGE

Karar_Hussain/PS*