

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
Constitution Petition No. D-166 of 2022

Present:

Zafar Ahmed Rajput, J
Shamsuddin Abbasi, J

Petitioner : Abdullah Soomro s/o Moula Bux, through
Mr. Syed Zafar Ali Shah Bukhari, Advocate

Respondent : Federation of Pakistan, through Authorized
No.1 Officer of Utility Store Corporation,
Islamabad (*Nemo*)

Respondents : M/s Utility Store Corporation of Pakistan
No.2 & 3 (Pvt.) Limited, through Mr. Ghulam Abbas
Akhtar Awan, Advocate

Respondents : Full Bench, National Industrial
No.4 & 5 Relationship Commission & Single Bench
Member of NIRC, Sukkur (*Nemo*)

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Date of Hearing : 06.10.2022
Date of Order : 06.10.2022
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O R D E R

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ZAFAR AHMED RAJPUT J.- The petitioner while serving as In-charge Utility Store, Lashari Mohalla, Jacobabad was issued a charge sheet on the allegation that the Audit had detected shortage of Rs. 275,014/-. An inquiry was conducted against him and he was dismissed from the service vide order, dated 31.08.2017. Being aggrieved by his dismissal order, the petitioner filed Grievance Petition being No.4B (35)/ 2017-S, under section 33 R/W sections 57 & 54 (e) of the Industrial Relations Act, 2012 (**“the Act”**), which was allowed by the Member, NIRC Bench at Sukkur vide order, dated 31.12.2020, directing to respondents/USC to reinstate the petitioner in his service without back benefits. Against that, respondents No.2 preferred Appeal No. 12A(08)/2021-S, under section 58 of the Act, which was allowed by the Full Bench of NIRC at Karachi vide order, dated 27.01.2022, by setting aside the order dated 31.12.2020. It is against this order that the petitioner has preferred the instant Constitution Petition.

2. Learned counsel for the petitioner has mainly contended that there was allegation of short amount, which the petitioner paid, while co-accused Niaz Abro also faced the same charge, but he was reverted while the petitioner was dismissed from the service discriminately.
3. Conversely, learned counsel for the respondents No. 2 & 3 has fully supported the impugned order.
4. Heard, record perused.
5. The Full Bench of NIRC at Karachi while passing impugned order has observed, as under:

“7. The respondent admitted at bar that he sold out the damaged / expired items and deposited the amount in the Corporation. The record transpires that the respondent was involved in misappropriation of store items and as confessed used to sold out such items in open market for which he was not authorized. He was not authorized to sell out expired items in market. He was responsible to keep such items and report to the authority. The respondent has not shown any proof that he has brought in knowledge of competent authorities the details of damaged / expired items. He should have correspond with the authorities for lifting these items.

6. It appears from the perusal of the record that the petitioner was holding charge of the aforesaid Utility Store from 14.12.2015 to 25.01.2017. During the said period, a shortage of Rs. 2,75,014/- was found in the said Utility Store; hence, he was served with a charge sheet, dated 27.02.2017. Subsequently, an inquiry was conducted by an Inquiry Officer wherein the petitioner participated. The Inquiry Officer concluded the proceedings and recorded his findings holding the petitioner guilty of misconduct. Thereafter, the respondent Corporation gave a further chance to petitioner for explaining his position by issuing final show-cause, dated 07.08.2017. Since the petitioner was found guilty of misconduct in

departmental inquiry, he was awarded penalty of dismissal from service vide dismissal order, dated 31.08.2017. It further appears that during his service in respondent Corporation, the petitioner had been defying the directives and disciplines of the respondent Corporation for that he was issued show cause notices/charge sheets, dated 15.03.2016, 13.06.2016, 22.9.2016, 11.01.2017, 01.12.2016, 09,12,2016, 14.12.2016, 19.12.2016 and 31.07.2017. It is also a matter of record that the petitioner while admitting his guilt deposited aforesaid amount with the respondent Corporation. It may be observed that once misconduct is proved, it is sole discretion of the employer to award the punishment and the employee cannot ask for awarding minor punishment.

7. So far the contention of learned counsel for the petitioner regarding awarding of minor punishment to co-accused Niaz Abro is concerned, it may be observed that the petitioner did not agitate such ground in his Grievance Petition. He has not furnished details of the case of said Niaz Abro. The record does not reflect if any co-accused also joined the alleged charge of misconduct with the petitioner; hence, in absence of any material on record, imposing of major punishment upon the petitioner cannot be considered as disproportionate or discriminatory.

8. For the foregoing facts and reasons, the impugned order passed by the Full Bench of NIRC at Karachi does not suffer from any illegality or irregularity requiring any interference of this Court under its Constitutional jurisdiction, under article 199 of the Constitution of Islamic Republic of Pakistan, 1973; hence, this Constitution petition is dismissed being devoid of any merit, with no order as to costs.

Judge

Judge