

ORDER SHEET
BEFORE THE SINDH SUBORDINATE JUDICIARY SERVICE
TRIBUNAL, HIGH COURT OF SINDH AT KARACHI.

Service Appeal No. 07 of 2015

DATE

ORDER WITH SIGNATURE OF JUDGE

Disposed of case.

For Orders on CMA No. 01/2020 (Restoration)

25.05.2024.

Mr. Zahid Ali Maitlo, Advocate along with Appellant.

Mr. Ali Safdar Depar, Assistant Advocate General.

MUHAMMAD JUNAID GHAFFAR J.- Through this application, the Appellant seeks recalling of Order dated 30.11.2019; whereby, this appeal was dismissed for non-prosecution. Learned Counsel for the Appellant has referred to the Application and the supporting affidavit, and submits that on that very date, the Appellant could not reach Court due to unavoidable circumstances and heavy traffic jam; hence this application. In view of above, application is allowed. The Appeal is restored to its original position by recalling the Order dated 30.11.2019.

Heard Counsel for the Appellant on merits of the case and perused the record. Through this Appeal, the Appellant has impugned Order dated 19.01.2015 passed by the District & Sessions Judge, Jamshoro at Kotri; whereby, while exercising powers under Section 4(1)(b)(iii) of Sindh Civil Servants (Efficiency & Discipline) Rules, 1973, the Appellant has been removed from service with immediate effect. The primary reason for passing the impugned order is continuous absence of the Appellant without any explanation or grant of leave. From perusal of the details worked out and as mentioned in the impugned order, it appears that for a total 95 days, he has remained absent w.e.f. 25.10.2014; whereas, despite a lenient view taken as to his previous conduct, the

Appellant never mend his ways and time and again remained absent from his duties. Record further reflects that on the date of hearing, the Appellant appeared in person and admitted that he has remained absent from his duties without leave and contended that he may be excused and he will join the duty. Such conduct of the Appellant does not warrant any indulgence in the matter inasmuch as time and again the Honourable Supreme Court has held that continuous absence by Civil / Government Servants without proper leave is not an appreciable act and amounts to misconduct. In fact, the Honourable Supreme Court has gone to the extent that in such cases when the absence without leave has not been denied, there was no need for holding of a regular enquiry for that there was no disputed fact involved to be enquired into. Reliance in this regard may be placed on the case of ***National Bank of Pakistan and another Vs. Zahoor Ahmed Mengal (2021 SCMR 144)*** and an unreported judgment dated 06.01.2022 passed by the Honourable Supreme Court in ***Civil Appeal No. 835/2021 (Government of Khyber Pakhtunkhwa through Secretary Health, Civil Secretariat, Peshawar and others Vs. Dr. Liaquat Ali and others)***.

In view of the above position, no case for indulgence is made out. Accordingly, instant Appeal is hereby dismissed.

CHAIRMAN

MEMBER