

IN THE HIGH COURT OF SINDH AT KARACHI
CP. No. D-5602 of 2020
(*Bilal Mirza v Province of Sindh & others*)

Date	Order with signature of Judge
	Before: Mr. Justice Muhammad Karim Khan Agha Mr. Justice Adnan-ul-Karim Memon

Date of hearing and Order: 26.05.2025

Mr. Ch. Jaffar Hussain advocate for the petitioner.
Malik Altaf Jawed advocate for KMC.
Mr. Ali Safdar Depar Assistant Advocate General.

ORDER

Adnan-ul-Karim Memon, J: The petitioner is requesting the court to:

Declare the removal from service order dated September 10, 2020, as illegal and set it aside. They seek reinstatement to their position with full back benefits and continuity of service.

Grant any other relief the court deems appropriate and just under the circumstances of the case.

2. The Petitioner is challenging the order of his removal from service dated September 10, 2020, asserting that it was issued without due process. He claims that he was never given a charge sheet, show cause notice, or an opportunity to explain himself, nor was a proper inquiry conducted. He began working at Karachi Medical and Dental College (KMDC) in 2011 as a stenographer. Due to his strong performance and clean record, he was promoted to Program Officer (BPS-17) in 2013 and then to Audit Officer in 2017. His promotion to Deputy Director Audit (Grade 18) was approved by the Governing Body but was never officially issued. On June 5, 2020, the Petitioner was suspended based on "unfounded allegations" of fraud and forgery, which he stated arose from an inquiry into other officials. He emphatically denies these allegations, asserting that he was not involved and never received any funds. He repeatedly requested a copy of the inquiry report but was never provided one. Despite a vague notice dated July 27, 2020, which referenced the suspension letter as a charge sheet, he maintained that he was never properly charged or given a chance to present his case with full knowledge of the accusations against him.

3. The Petitioner's counsel argued for the illegality of his client's dismissal, citing a lack of due process and adherence to natural justice principles. Specifically, the counsel contended that there was no proper inquiry, no presentation of incriminating evidence, no opportunity for the petitioner to be heard, and no second show-cause notice. Further, the counsel asserted that the removal order was issued by an incompetent authority, as the principals responsible only held power over employees up to Grade 16, while the petitioner was a Grade 17 officer. The counsel emphasized that the order is completely unsupported by any evidence against the petitioner. It's highlighted that the

petitioner's duties were limited to pension and leave matters, meaning he had no involvement in preparing or signing salary checks. This, the counsel argued, severs any connection between the petitioner and the alleged misconduct. The petitioner is portrayed as an "innocent employee" unjustly made a "scapegoat." Having exhausted his departmental appeal without a decision, the Petitioner seeks to have the removal order declared illegal and to be reinstated with full back benefits and continuity of service, underscoring the severe and unjust damage to his career and future, it is asserted. Learned counsel for the petitioner has relied upon the cases of Superintendent of Police Headquarters Rawalpindi and others v Ijaz Haider 2000 SCMR 1868, Pakistan International Airlines Corporation PIAC v Ms. Shaista Naheed **2004 SCMR 316**, Muhammad Abdul Moied v Government of Pakistan & others **2010 PLC (CS) 1143**, Government of Pakistan v Farheen Rashid **2011 SCMR 1**, Abdul Sami Memo & others v Federation of Pakistan & others **2020 PLC 125**, and one unreported order dated **20.04.2018 & 09.05.2018** passed by this court in the case of Dr. Asha Bai v The Chairman Karachi Port Trust & others. He lastly prayed to allow the instant petition.

4. Learned counsel for KMC opposed the petition because it is not maintainable, as the respondent KMDC has no statutory service rules. He argued that after reviewing all records, including bank statements and the petitioner's unsatisfactory response to the charge sheet, it was proven that he unlawfully acquired Rs. 158 million of KM&DC funds over the past five years by abusing his position. He was given seven days to return this amount and any associated perks, but failed to do so. A final warning was issued to him to return the Rs. 158 million and all KM&DC-related benefits within seven days; ultimately, he was removed from service for fraud, forgery, and financial embezzlement. He was removed from service under the Efficiency and Disciplinary Rules, 1974/1973, rule 4(b) III/IV. This decision was approved by the Mayor of Karachi/Chairman Governing Body (GB). The learned counsel further argued that the disciplinary proceedings aim to determine an employee's guilt regarding misconduct and, if proven, to impose appropriate minor or major penalties under applicable service rules as deemed fit by the competent authority. He also noted that a formal inquiry is not always required after a show-cause notice, but if omitted, the department must provide compelling and justifiable written reasons. In this case, the petitioner was found guilty of misappropriation, resulting in his rightful removal from service, and he prayed for the dismissal of the petition.

5. We have heard the learned counsel for the parties and perused the record with their assistance and case law cited at the bar.

6. Karachi Medical & Dental College is medical and dental college that is established, managed and administered by a Municipal Corporation. KMDC is affiliated with Abbassi Shaheed Hospital, and is public sector

hospital, as such falls within the ambit of Article 199(5) of the Constitution allowing this Court to entertain the petition by the aggrieved party. As such the question of maintainability of the petition is overruled.

7. The respondents' actions in this case appear negligent and reckless. It seems the departmental inquiry was intentionally skipped, creating procedural loopholes to technically benefit the petitioner. Remanding this case for a new inquiry now seems futile. Given the petitioner's past conduct, a new inquiry would likely be a mere formality, potentially leading to the petitioner's reinstatement with full back benefits, effectively nullifying the punishment. After such a significant time lapse, an inquiry would not serve any constructive purpose by the order of this court. However, since the petitioner was removed with a stigma and seemingly denied a proper chance to present his defense, he is free to apply to the competent authority for a revival of proceedings from the beginning, following due legal process. If the respondents have concrete evidence against the petitioner, the law shall be followed in the strict sense; however, the competent authority, before deciding on the subject proposition, shall hear the petitioner without fail. The respondents shall also look into the decision of the Supreme Court. This exercise must be undertaken within three months.

8. This petition is disposed of in terms of the decision of the Supreme Court in the case of Senior Superintendent of Police Vs Shahid Nazir **2022 SCMR 327**.

JUDGE

Head of the Const. Benches