

IN THE HIGH COURT OF SINDH AT KARACHI
CP. No. D-2328 of 2021
(*Muhammad Tanveer v Pakistan Steel & 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: 27.05.2025

Mr. Nadir Khan Burdi advocate for the petitioner.
Mr. Asghar Ali Khan advocate for respondents.
Ms. Wajiha Mehdi Assistant Attorney General.

O R D E R

Adnan-ul-Karim Memon, J: The petitioner urges this Court to invalidate his removal from service decision made by the respondent Pakistan Steel Mills in 2009, which he asserted was illegal and without cause. He is requesting to be restored to his position with continuous service as a Driver and all accrued back pay and benefits, highlighting the hardship of being unlawfully unemployed since 2009, despite his persistent job search.

2. This petition challenges the unjust removal of a long-serving employee from Pakistan Steel. On October 20, 2009, the petitioner, a "workman" with 19 years of unblemished service, was dismissed following a January 2009 incident where his vehicle was stolen, leading to his arrest for theft. Despite being fully acquitted of these charges on May 13, 2011, he was suspended and subjected to a departmental inquiry that he claims was rigged. His subsequent dismissal, despite the acquittal, has been a protracted legal battle. His service appeal to the Federal Service Tribunal (FST) abated, and a later grievance petition was dismissed by the National Industrial Relations Commission (NIRC) in January 2021, which cited a lack of jurisdiction for cases involving the Special Powers Ordinance 2000.

3. The petitioner's counsel explained the delay in reaching this Court by detailing a series of judicial dead ends: an abated FST appeal, and dismissals by the Labour Court and NIRC, primarily due to the latter's declared incompetence to handle cases under the Special Powers Ordinance, 2000. Therefore, appealing the NIRC's decision internally was deemed futile. Counsel adamantly argued that the petitioner's removal was fundamentally illegal and void, given his acquittal on the very theft charges by the competent court of law that formed the basis of his dismissal. He meticulously outlined the flaws in the departmental inquiry, including its reliance on irrelevant evidence and a purported "confessional statement" that was fabricated and contradicted by other facts. The counsel further highlighted significant inconsistencies in the FIR, suggesting a concerted effort to frame the petitioner in a purported theft of some iron bars. He emphasized that the severe punishment of removal overruled the inquiry officer's milder

recommendation of demotion, and crucially, the denial of a personal hearing violated the cornerstone of due process. Ultimately, counsel asserted that the respondent's actions were not merely unlawful but also unconstitutional, discriminatory, and a direct assault on the petitioner's fundamental rights. He prayed to allow the petition.

4. The respondent's counsel countered the petitioner's claims by stating that the petitioner, a Pakistan Steel Mill employee since April 4, 1990, was apprehended during the act of stealing five pig iron blocks on January 29, 2009. He asserted that the petitioner provided a confessional statement and that an FIR was lodged against him, in addition to charges for misusing a company vehicle. While acknowledging the petitioner's suspension on February 9, 2009, the respondent's counsel argued that the petitioner's later claim of a forced signature was opportunistic, made only after he obtained bail. He emphasized that the petitioner was afforded due process, including a granted request for a different inquiry officer, leading to a fair inquiry by Muhammad Atique Khan, where the petitioner had ample opportunity to present his defense and cross-examine witnesses. Following a guilty finding, a show cause notice was issued on October 1, 2009, and after his reply, the petitioner was dismissed on October 20, 2009. He further argued that petitioner was convicted by the trial court and subsequently acquitted by the appellate court cannot influence the disciplinary proceedings which are independent of nature. He added that the proceedings initiated against the petitioner, under Removal from Service (Special Powers) Ordinance 2000 was rightly abated by the Federal Service Tribunal (FST), and against the statutory dispensation and this court has no jurisdiction. A critical point raised by the respondent's counsel was that the petitioner's grievance notice, submitted on November 18, 2011, was time-barred, leading to a request for this court to dismiss the petition as unmaintainable, with costs.

5. We have heard the counsel for the parties and perused the record with their assistance.

6. Coming to the first issue of laches as raised by the respondents. The doctrine of laches does not apply to this petition for the reason that the Petitioner has continuously pursued his remedy since his dismissal from service in 2009 for allegedly transporting/stealing pig iron blocks. Following his dismissal on October 2, 2009, he filed a Service Appeal with the Federal Service Tribunal (FST), which was dismissed as abated on June 24, 2010, with a directive to approach the proper forum. He then filed a Grievance Petition with the Labour Court, which was transferred to the National Industrial Relations Commission (NIRC) and subsequently dismissed on January 26, 2021, due to a lack of jurisdiction. The Petitioner then approached this Court on April 1, 2021. Given this timeline, the petition should be heard and decided on its merits.

7. Secondly, on the proposition that the proceedings initiated against the petitioner, under Removal from Service (Special Powers) Ordinance 2000 could only be assailed before the Federal Service Tribunal (FST) and/or NIRC, against the statutory dispensation. We do not agree with the contention of the learned counsel for the respondent Steel Mills that his petition is not maintainable before this court for the reason that his Service Appeal before learned FST was abated based on the judgment passed by the Supreme Court in Mubeen-us-Salam and others vs. Federation of Pakistan and others (PLD 2006 SC 602); besides that irrespective of an employee of a State-controlled corporation not being a civil servant the corporation themselves continue to remain amenable to the jurisdiction of this Court under Article 199 of the Constitution as well. However, in exceptional cases, the Rule of Master and Servant is inapplicable to cases where there is a violation of statutory provisions or any other law, like RSO 2000.

8. On the subject proposition so put forward by the learned counsel for the respondents that the disciplinary proceedings and criminal proceedings are altogether different and independent of each other and cannot be termed synonymous and interchangeable. There is no cavil to that proposition. The departmental inquiries for misconduct use a lower standard of proof ('balance of probabilities') compared to criminal trials ('proof beyond reasonable doubt'). The forums for adjudication, principles of evidence, and procedure are also separate and distinct. The decision of one forum cannot have a bearing on the decision of the other forum. On the aforesaid proposition, we are guided by the decision of the Supreme Court in the cases of Dr. Sohail Hassan Khan v. Director General (Research), Livestock and Dairy Development Department, Punjab, Lahore and others (2020 SCMR 1708), (2021 SCMR 420), The District Police Officer, Mianwali and others v. Amir Abdul Majid, Province of Punjab v. Khadim Hussain Abbasi (2021 SCMR 1419) and Usman Ghani v. The Chief Post Master, GPO Karachi, and others (2022 SCMR 745).

9. In our view, a person convicted or acquitted in a criminal trial cannot influence the disciplinary proceedings. We are fortified in our view by the decisions rendered by the Supreme Court in the cases of Mir Nawaz Khan vs. Federal Government and others [1996 SCMR 314], Arif Ghaffoor v. Managing Director, H.M.C. Taxila and others (PLD 2002 SC 13), Muhammad Iqbal v. District Police Officer, Sahiwal and another (2011 SCMR 534), Executive Engineer and others v. Zahid Sharif (2005 PLC (C.S.) 701), Falak Sher v. Inspector General of Police, Punjab and 2 others (2005 SCMR 1020), Rab Nawaz Hingoro v. Government of Sindh and others (2008 PLC (C.S.) 229), Nazir Ahmed v. Capital City Police Officer, Lahore and another (2011 SCMR 484), Syed Muhammad Iqbal Jafri v. Registrar, Lahore High Court Lahore (2004 SCMR 540); Khaliq Dad v. Inspector General of Police and others (2004

SCMR 192), and *'Muhammad Ayub v. The Chairman Electricity Board WAPDA, Peshawar and another'* (PLD 1987 SC 195).

10. On merits, we have noticed that on April 27, 2009, an inquiry began into allegations against the Petitioner for stealing five pig iron blocks on January 29, 2009, at 3:00 AM, from the Pig Casting Yard using a company Toyota Pickup. He was also accused of vehicle misuse. The Petitioner denied the charges on May 5, 2009. During the inquiry, prosecution witnesses claimed he was caught red-handed. Saeed Dogar and Muhammad Usman (Security Guards) stated they saw him with the pig iron, though Dogar was 100 meters away and Usman described the Petitioner shirtless and wearing gloves. Awal Noor Khattak (J.O. Security) stated he wrote the Petitioner's signed confession and confirmed the vehicle belonged to the Transport Department, but did not witness the loading. Dawar Nawab (Security Guard) claimed to have seen him loading the iron, and that the Petitioner admitted it was his first time. Suleman Sanjrani (A.M.) lodged the FIR after receiving information and finding tire prints. Raja Muhammad Rafique (Driver/Shift Incharge) confirmed the Petitioner had reported low tire pressure earlier and later received a call about his apprehension. Malik Anjum (J.O. Security) was informed that the Petitioner was apprehended alone. The Petitioner's defense stated he was on duty but unassigned until 2:00 AM. He informed his supervisor about the low tire pressure and drove to inflate it. While urinating near the Pig Iron Stockyard, five civilians stopped him, took his keys, and prevented him from returning to his vehicle. He was then shown pig iron in his vehicle by Saeed Dogar and accused of theft, claiming he was forced to sign a blank paper. He was arrested, released on bail on February 2, 2009, and later learned of a fabricated confession. He denied the fabricated statements but presented no defense witnesses. The inquiry concluded the Petitioner was guilty of attempting to steal pig iron and misusing the company vehicle, despite the unlikelihood of success without security checks and his failure to mount a defense. It was recommended that he be punished with a one-stage reduction in pay. Subsequently, in the criminal case, the Petitioner was convicted by the trial court. However, the appellate court set aside his conviction and sentence, citing several concerns: Lack of direct evidence: The complainant wasn't present at the arrest, and key witnesses didn't directly observe the theft. Contradictory testimony: Dawar Nawab's account of the Petitioner loading heavy pig iron alone was questionable, and he admitted the vehicle wasn't checked on entry. Procedural irregularities: Police weren't called to the scene, the investigating officer didn't confirm the pig iron's weight, and no other employees were questioned. Accused's status: As an employee with authorized entry, the charges were questionable, and the prosecution failed to provide attendance records. Due to these significant doubts, the trial court's judgment was deemed unsustainable, and his appeal was accepted.

11. The petitioner's removal from service, ordered on October 20, 2009, appears unduly severe. This is because the inquiry officer had only recommended a one-stage reduction in pay. Furthermore, the petitioner was acquitted of the charges leveled by the Pakistan Steel Mills against him by a competent court. Given these circumstances, the punishment is disproportionate. Therefore, in the interest of justice, we have decided to change the punishment from removal from service to compulsory retirement, provided the petitioner meets the required length of service. The Pakistan Steel Mills, Ministry of Industry and Production, is directed to implement this change and its consequences within three months.

12. The petition stands disposed of in the above terms.

JUDGE

Head of the Const. Benches