

**IN THE HIGH COURT OF SINDH,
AT KARACHI**

C. P. No. D-4039 of 2023

C. P. No. D-6546 of 2016

Present:

Yousuf Ali Sayeed, J

Abdul Mobeen Lakho-J

Petitioner : Bheru Lal, through Talha Abbasi, Advocate.

Respondents : Pakistan Telecommunication Company Limited, through Sufiyan Zaman & Muniruddin Qidwai, Advocates.

Date of hearing : 19.11.2025.

ORDER

YOUSUF ALI SAYEED, J. - The Petitioner, a former employee of the Pakistan Telecommunication Company Limited, has invoked the jurisdiction of this Court under Article 199 of the Constitution seeking the issuance of his retirement Notification and claiming his retirement dues and back benefits.

2. As per the record, the Petitioner was initially appointed as an Assistant Divisional Engineer (BPS-17) in the Telegraph & Telephone (T&T) Department of the Federal Government on 19.11.1989 and regularized vide an Order dated 01.03.1994. Thereafter his services stood transferred, firstly to the Pakistan Telecommunication Corporation in pursuance of the Pakistan Telecommunication Corporation Act, 1991, with his

terms and conditions of service being protected in terms of Section 9 thereof, and then again to the Respondent upon its establishment under the Pakistan Telecommunication (Re-organization) Act 1996, with Section 36 providing “that the Federal Government shall guarantee the existing terms and conditions of service and rights, including pensionary benefits of the Transferred Employees.” In the wake of those transitions, the Petitioner eventually stood retired upon attaining the age of superannuation on 01.04.2023.

3. As it transpires, the Petitioner was subjected to disciplinary proceedings whilst in service, culminating in an Order dated 19.05.2010 removing him from service, prompting him to institute CP. No. D-6546/2016 before this Court assailing that action, which was allowed by a learned Division Bench vide a short Order dated 27.09.2019 whereby he was reinstated, subject to the outcome of a de novo inquiry. Paragraphs 17 and 18 of the reasons that followed on 11.10.2019 read as follows:

“17. Civil Servants Act and rules framed thereunder cannot be made applicable in piecemeal and left to the desire and choice of the management. If the transferred employees of T&T were to be dealt with in accordance with the terms and conditions, which was guaranteed by two subsequent pieces of legislation, then this chain cannot be broken on any count or head, such as disciplinary issues. If there are charges of serious nature, as highlighted in the charge sheets, then an employee while defending such charges should have been provided with every possible opportunity of defence that he could have as a consequence could be damaging for the employee, petitioners herein. No rule could be read to the disadvantage of the petitioners.

18. Thus in view of these facts and circumstances and considering the gravity of the case and/or allegations leveled against the petitioners, we deem it appropriate to set aside the order of the removal of petitioners from service however we are equally conscious of the fact that the charges raised and leveled against the petitioners be probed expeditiously without any further delay in the matter. Thus, we are inclined to pass a conditional order that though the impugned removal orders in both petitions are set aside but reinstatement shall be subject to the condition that the respondents may initiate fresh inquiry against petitioners in accordance with law as early as possible and conclude the same preferably within three months. The question of back benefits with consequential relief shall also be subject to the outcome of the inquiry. In case the inquiry is not conducted by the respondent company then the petitioners shall be entitled for reinstatement and back benefits after the expiry of period.”

4. The proceedings that ensued against the Petitioner following his reinstatement on 02.01.2020 were then met by CMA No. 25315/20 moved under the Contempt of Court Ordinance 2003 in the disposed of Petition, with the ensuing Order made on 23.11.2020, reading thus:

“2. Through this application, the petitioner has prayed that proceedings be initiated against alleged contemnors for disobeying the judgment delivered on 11.10.2019 by this Court in the present petition, whereby the petitioner’s impugned removal from service was set aside, however, it was ordered that his reinstatement was subject to fresh inquiry against him in accordance with law within three months. It is contended that instead of initiating fresh inquiry as directed by this Court, charge sheet dated 06.01.2020 was issued by alleged contemnors in pursuance of the earlier charge sheet dated 02.06.2009. It is further contended that this fact clearly shows that the judgment of this Court has been completely disregarded by alleged contemnors. Issue notice to alleged contemnors with direction to file counter affidavit before the next date of hearing.

To come up on 15.12.2020. Till then, final order shall not be passed in pursuance of charge sheet dated 06.01.2020.”

5. That Order came to be extended, with the Petitioner attaining superannuation on 01.04.2023 during its subsistence, and this Petition then being filed on 21.08,2023 seeking issuance of his retirement notification and release of his retirement benefits whilst invoking Fundamental Rule 54-A of the Fundamental Rules of Service, 1922, which provides that:

FR 54A of Fundamental Rules of Service, 1922. *If Government servant, who has been suspended pending inquiry into his conduct attains the age of superannuation before the completion of inquiry, the disciplinary proceedings against him shall abate and such Government servant shall retire with full pensionary benefits and the period of suspension shall be treated as period spent on duty.*

6. In the case of Abdul Lateef v. Services, General Administration and Co-ordination Department 2025 PLC (C.S) 732, where the aforementioned Rule came under consideration before this Court, it was observed and held by a learned Division Bench that:

9. **The rule makes it absolutely clear** that after the superannuation of the petitioner the disciplinary proceeding against him will abate. Since the petitioner has superannuated we find that the disciplinary proceedings against him have abated and as such the impugned letter is of no legal effect.

10. **The rule also makes it absolutely clear** that once the disciplinary proceedings against the petitioner have abated (which we have found above in this case) the petitioner shall retire with full pensionary benefits.

11. The same position was upheld by the Supreme Court in the case of Muhammad Zaheer Khan (Supra) in the following terms;

“10. From the plain reading of the above Rule (FR 54A) it becomes abundantly clear that what to talk of sending the case back to the department, even the pending disciplinary proceedings against an officer abate if the latter attains the age of superannuation. The Rule entitles such officer to retire with full pensionary benefits and period of suspension is bound to be treated as period spent on duty. In the circumstances, the question of now sending the matter back to the department for holding denovo inquiry stands out of question. It may be stated at this juncture that the appellant has stated at the Bar that he is not interested in claiming any back benefits and that he is only interested in getting the stigma removed.”

7. During the course of arguments, the entitlement of the Petitioner was resisted solely on the plea that the Respondent ought not to be held subject to Fundamental Rule 54-A as it was precluded from finalizing the de novo proceedings against the Petitioner due to subsistence of the aforementioned Order made on 23.11.2020.
8. Having considered the matter in the given backdrop, we are of the view that it was open to the Petitioner as a matter of course to assail the de novo proceedings before this Court on any grounds as he saw fit to raise, as well as to seek interim relief, and it was for the Respondent to have actively resisted the challenge and sought dismissal thereof so as then advance the disciplinary proceeding against the Petitioner to its conclusion prior to his superannuation. However, we have observed that no initiative was taken by the Respondent to contest CMA No. 25315/20, as no counter-affidavit thereto was filed and no effort was made to press for hearing of the matter. As such, the plea taken by the Respondent is of no avail in defense of the Petitioners claim.

9. In view of the foregoing, C.P. No. D-4039 of 2023 stands allowed, with the Respondent company being directed to finalize the retirement of the Petitioner and settle his dues in full within a period of fifteen days from the date of announcement of this Judgment. The miscellaneous pending in C. P. No. D-656 of 2016 also stand disposed of accordingly.

JUDGE

JUDGE