

ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT KARACHI
Constitution Petition No. D-228 of 2022
(*Alauddin Vs. Government of Sindh & others*)

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE
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Before:

Muhammad Karim Khan Agha, J;

Adnan-ul-Karim Memon, J

Date of hearing and Order: 19-08-2025

Mr. Qaim Ali Memon, advocate for the petitioner.

Mr. Fahad Akbar advocate for National Bank of Pakistan

Ms. Wajiha Mehdi, Assistant Attorney General

ORDER

ADNAN-UL-KARIM MEMON, J.: The petitioner is requesting this Court to grant the following relief:

To direct the respondents to pay all back benefits of the absence period of the petitioner w.e.f. 19.05.2016 to 01.03.2018.

To direct the respondents to consider of seniority of the petitioner with his batchments.

Any other relief in favor of the petitioner, which may please be granted.

2. An NBP officer, who claims to have a clean service record, was wrongly accused in a criminal case and arrested. He was held in custody from May 19, 2016, to March 1, 2018. During this time, he could not attend work. He was eventually acquitted of all charges by the trial court. After his acquittal, the bank reinstated him to his position, and he is still employed there. The employee is now petitioning the court to order the bank to pay him all his **back benefits**, including salary, for the period he was detained. He submits that his absence was involuntary and beyond his control. He has repeatedly requested this payment, but the bank has ignored his applications. He believes it is the bank's legal and moral duty to compensate him for the period he was wrongfully absent. He also asks the court to restore his seniority to be on par with his colleagues.

3. The petitioner's lawyer argued that reinstatement legally entitles an employee to receive back benefits of the absence period w.e.f. 19.05.2016 to 01.03.2018, and therefore, the petition may be allowed.

4. The National Bank of Pakistan's brief response is that the employee's petition is not legally valid because the bank's internal rules (National Bank of Pakistan (Staff) Service Rules 1973) have been repealed by the Federal Government. This suggests the bank is submitting that the rules the employee is relying on for his claims no longer apply.

5. Learned counsel for the respondent Bank submitted that the petitioner, a bank employee, was terminated from his job after being arrested on May 19, 2016, in a criminal case. The employee was later acquitted of all charges, but by "extending the benefit of doubt." After his acquittal, the petitioner filed a departmental appeal. The bank responded by reinstating his services. However, the reinstatement came with specific conditions, which the petitioner accepted when he signed his joining report. These conditions included treating the period of his absence (from the date of arrest until his reinstatement) as "extraordinary leave (EOL) without pay." This period was not to be counted toward his service, promotions, or pensionary benefits. The respondent counsel argues that because the petitioner accepted these terms and conditions upon rejoining, he has no legal right to now claim back benefits or seniority. The respondent's position is that the matter was already resolved when the petitioner's appeal was granted, and he signed the reinstatement letter and joining report. They allege the petitioner's new petition is filed with "malafide intention" and should be dismissed.

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

7. The Petitioner was terminated after a 2016 arrest, was later acquitted with the "benefit of doubt." The bank reinstated him, but only if he agreed to specific conditions. He accepted, signing a report that designated his time away as "extraordinary leave without pay," a period that would not count toward his service, promotions, or pension. He is now petitioning for the reinstatement of those benefits, a claim the bank opposes, by submitting that he already agreed to the terms.

8. The petitioner's acceptance of the reinstatement and the signing of the joining report, which designated his time away as "extraordinary leave without pay," prevents him from now claiming back benefits for that period. He did not challenge the conditional reinstatement at the time, and since that order is now final, this court is not required to intervene under Article 199 of the Constitution. The Supreme Court in the case of *National Bank of Pakistan vs Zahoor Ahmed Mengal* **2021 SCMR 144** has ruled that an employer can treat an unauthorized absence as "Extra Ordinary Leave (EOL) without pay" and that this is not a form of punishment.

9. The petition is dismissed based on the Supreme Court's ruling in the NBP case mentioned earlier.

JUDGE

HEAD OF COST. BENCHES