

IN THE HIGH COURT OF SINDH AT KARACHI  
CP. No. D-5658 of 2023  
(*Arif Ali & others 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: 01.09.2025**

Mr. Sadruddin Buriro advocate for the petitioner.  
Mr. Malik Altaf Hussain advocate for KMC.  
Mr. Ali Safdar Depar Assistant Advocate General.

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**ORDER**

**Adnan-ul-Karim Memon, J:**           The petitioners are requesting the court to:

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

Direct the Respondents to restore the petitioners to their jobs with all back benefits from the date of removal

To direct the respondent No.4 to decide departmental appeals pending before him since 2020, as per merit.

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

2.       The petitioners are challenging their removal from service on September 10, 2020, arguing that they were suspended and fired without due process. They were initially suspended on June 1, 2020, based on what they claim are baseless allegations of fraud and embezzlement. They state that while the charge sheet accuses them of embezzling funds over the past five years, no such transactions ever occurred in their accounts. They were never given a proper opportunity to defend themselves or fully understand the accusations. Despite filing a departmental appeal, they have not received a decision.
3.       The Petitioners’ 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. The counsel argued that there is no connection between the petitioners and the alleged misconduct. The petitioners are portrayed as an "innocent employee" unjustly made a "scapegoat." Having exhausted his departmental appeal without a decision, the Petitioners seek 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. 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 their position. They were given seven days to return this amount and any associated perks, but failed to do so. A final warning was issued to them to return the Rs. 158 million and all KM&DC-related benefits within seven days; ultimately, they were removed from service for fraud, forgery, and financial embezzlement. They were 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 petitioners were found guilty of misappropriation, resulting in their 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 a 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 petitioners were removed with a stigma and seemingly denied a proper chance to present their defense, they are 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 petitioners, the law shall be followed in the strict sense; however, the

competent authority, before deciding on the subject proposition, shall hear the petitioners.

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

Shafi