

IN THE HIGH COURT OF SINDH, KARACHI

Before:

Justice Muhammad Saleem Jessar
Justice Nisar Ahmed Bhanbhro

CONST. PETITION NO.D-1618 OF 2024

(Sui Southern Gas Company v. Bakht Zada)

Petitioner : Through Mr. Ameer Nasherwan Adil,
advocate

Respondents : Through M/s. Abdul Wahab Baloch and
Faran Sardar, advocates

Date of hearing and order: **13.02.2026**

Date of Reasons: **13.02.2026**

ORDER

NISAR AHMED BHANBHRO, J. Through this petition, the petitioner has challenged the concurrent findings rendered vide Order dated 26.02.2024 by the Full Bench of National Industrial Relations Commission (NIRC) in Appeal No.12A(220)/2022-K (*re-SSGC v. Bakht Zada*) and vide order dated 30.08.2022 by Single Member of NIRC in Grievance Petition No.4B(76)/2019-K (*re- Bakht Zada s/o Ali Muhammad v. M/s. SSGC through its Chief Executive Karachi*), whereby the dismissal from service order dated 23.11.2019 of Respondent No. 1 (Bakht Zada) was declared as illegal and he was restored in service with back benefits.

2. Learned counsel for the petitioner contended that, pursuant to a complaint received from the customer, Zia ur Rehman, regarding the acceptance of a bribe by Respondent No. 1 (Bakht Zada), disciplinary proceedings were initiated against him, and he was ultimately terminated from service when charges stood substantiated in the inquiry. He further submitted that the inquiry was initiated within one month of receipt of the complaint and that the petitioner company was not at fault. He contended that during the course of the inquiry, Respondent No. 1 admitted his guilt; therefore, no further proceedings were required in the matter. He argued that the learned courts below allowed the grievance petition and restored the services of Respondent No. 1 on the grounds that

the notice was issued beyond the period of one month as mandated under Standing Order 15 and that the allegations of misconduct had not been proved. He further contended that the notice was extended within time and charge of misconduct stood established; therefore, the findings rendered by the courts below were perverse and the result of a jurisdictional defect, and thus liable to be set aside by this Court in the exercise of its constitutional writ jurisdiction. In support of his contentions he placed reliance on the case of **Muhammad Yousaf Khan v. Habib Bank Limited** (2004 SCMR 149), **Messrs Sui Southern Gas Company Ltd. v. Federation of Pakistan** (2018 SCMR 802), **Messrs Al-Khair Gadoon Ltd. v. The Appellate Tribunal & Ors.** (2020 PTD 18) and judgment of Federal Constitutional Court of Pakistan in F.C.P.L.A. No.14 of 2025 (re: **Vice Chancellor Shaheed Mohtarma Benazir Bhtto Medical University &Ors.**)

3. Learned counsel for the respondent No 1 argued that the alleged misconduct was not proved. He contended that the show-cause notice or charge sheet, as mandated under Standing Order 15, was issued beyond the prescribed period of one month. He further submitted that an inquiry was conducted even prior to the issuance of the charge sheet to Respondent No. 1, which demonstrated that the petitioner company had predetermined to terminate the services of Respondent No 1. He also argued that the concurrent findings of the courts below were well-reasoned and based on a proper appraisal of the evidence, and therefore did not warrant interference by this Court. He prayed to dismiss the petition.

4. Heard learned for the parties and perused the material made available before us on record.

5. A perusal of the record reveals that the petitioner company initiated disciplinary proceedings against the Respondent No 1 on the complaint filed by a customer, Zia ur Rehman, alleging that he was bribed 1 for the installation of a gas connection. The complaint was received on 27.01.2017, soon thereafter, an inquiry was initiated on 24.02.2017. Upon conclusion of the inquiry, a show-cause notice dated 14.07.2017 was issued to Respondent No. 1, and a charge sheet was subsequently served upon him vide office memorandum dated 08.08.2017.

6. Learned Courts below allowed the Grievance Petition on the ground that charge sheet was issued beyond the period of one month as required to have been issued under Standing Order 12 of the Industrial and Commercial Employees (Standing Order) Ordinance-1968. The guilt of misconduct was not established.

7. Under the labour laws, Standing Order 12 is guiding provision for termination of a permanent worker. For the sake of convenience, Standing Order 12 is reproduced below:

"12. Termination of employment. - (1) For terminating employment of a permanent worker, for any reason other than misconduct, one month's notice shall be given either by the employer or the worker. One month's wages calculated on the basis of average wages earned by the worker during the last three months shall be paid in lieu of notice.

(2) No temporary worker, whether monthly-rated, weekly-rated, daily-rated or piece-rated, and no probationer, badli or contract worker shall be entitled to any notice, if his services are terminated by the employer, nor shall any such worker be required to give any notice or pay any wages in lieu thereof to the employer if he leaves employment of his own accord.

(3) The services of a workman shall not be terminated, nor shall a workman be removed, retrenched, discharged or dismissed from service, except by an order in writing which shall explicitly state the reason for the action taken. In case a workman is aggrieved by the termination of his services or removal, retrenchment, discharge or dismissal, he may take action in accordance with the provisions of section 25A of the Industrial Relations Ordinance, 1969 (XXIII of 1969), and thereupon the provisions of said section shall apply as they apply to the redress of an individual grievance

(4) Where the services of any workman are terminated, the wages earned by him and other dues, including payment for unavailed leave as defined in clause (1) of Standing Order 8, shall be paid before the expiry of the second working day from the day on which his services are terminated.

(5) The services of a permanent or temporary worker shall not be terminated on the ground of misconduct otherwise than in the manner prescribed in Standing Order 15.

(6)

8. From perusal of the above provisions of law, it is crystal clear that the worker cannot be terminated from service on the charges of misconduct except as provided under Standing Order 15, before proceeding further it would be conducive to reproduce below Standing Order 15(4), for the ease of reference:

15. Punishment: (1)
(2)

(3)

(4) *No order of dismissal shall be made unless the workman concerned is informed in writing of the alleged misconduct within one month of the date of such misconduct or of the date on which the alleged misconduct comes to the notice of the employer and is given an opportunity to explain the circumstances alleged against him. The approval of the employer shall be required in every case of dismissal and the employer shall] institute independent inquiries before dealing with charges against a workman*

Provided that the workman proceeded against may, if he so desires for his assistance in the enquiry, nominate any workman employed in that establishment and the employer shall allow the workman so nominated to be present in the enquiry to assist the workman proceeded against and shall not deduct his wages if the enquiry is held during his duty hours.

9. The provisions of Standing Order 15 make it crystal clear that a charge sheet for misconduct must be issued within one month from the date the alleged misconduct comes to the notice of the employer. In the present case, Respondent No. 1 has asserted that the show-cause notice was issued to the Respondent No 1 on 14.07.2017 and that the charge sheet was served upon him on 08.08.2017, i.e., beyond a period of six months, which is *prima facie* time-barred. No reason whatsoever was assigned for the delay in issuing either the show-cause notice or the charge sheet. Respondent No. 1 submitted replies to the show-cause notice and the charge sheet, contending that the amount was not paid to him but to the contractor, Sajjad, through him for installation of gas connection. He further stated that when the contractor failed to install the gas meter, he paid the amount from his own pocket. The reply was found unsatisfactory; consequently, an inquiry committee was constituted. A perusal of the inquiry report dated 18.11.2017, available at page 173 of the court file, reveals that during the course of the inquiry, the statement of the company's representative was recorded; however, the same was not subjected to cross-examination by Respondent No. 1. Further it is the matter of record that the complainant Zia-ur-Rehman was not summoned and examined during the inquiry proceedings. The inquiry was conducted on the complaint of Zia ur Rehman and in absence of any statement of the said complainant before the inquiry committee, the findings of the committee cannot be treated a sacrosanct document because by choosing to remain absent from the inquiry proceeding it can safely be held that the complainant was unwilling to participate in the inquiry proceedings or the presumption can be drawn that inquiry

committee deliberately withheld his evidence, as he was not supporting the case of company. In absence of the statement of the complainant before the inquiry committee the result driven by the Enquiry Officer was based on no evidence as such not reliable. Furthermore, the said complainant Zia ur Rehman appeared as witness before the NIRC where in his affidavit in evidence he exonerated the Respondent No 1 from any charges of corruption. For the sake of convince para-6 of the affidavit in evidence is reproduced herein below:-

“6. That the installation could not be made within given time then I approached M/S. SSGC which resulted disciplinary action against Mr. Bakhtzada and he has been dismissed from service for no fault on his part as my meter has been installed and no any extra payment has been received by Mr. Bakhtzada rather we forced him to help us being our neighbor.”

10. From a perusal of the above evidence, the reason for non-association of complainant Zia-ur-Rehman can be easily drawn that he did not support the complaint filed by him before the Inquiry Committee. Consequently, the actions of the petitioner company of imposing major penalty of termination or dismissal were harsh and violation of the fundamental rights of Respondent No. 1, which the petitioner company was under a legal obligation to ensure. Petitioner/employer exceeded the mandate of law by imposing major penalty of termination upon the respondent No.1 who had served the company for entire life in workers grade.

11. Learned counsel for the petitioner failed to point out any illegality in the concurrent findings of the facts, besides to the legal question that the impugned action was taken by the employer is beyond the period of one month. This Court under its writ jurisdiction cannot embark upon to disturb the concurrent findings of the facts when the same are not found perverse to the evidence on record or did not suffer from jurisdictional error, as in the present case.

12. With huge reverence the case laws relied upon by learned counsel for the petitioner were distinguishable and did not apply to the facts of the case in hand.

13. For the aforementioned reasons, we find no hesitation to maintain the findings of two courts below and accordingly dismiss the petition being devoid of merits with no order as to the cost.

JUDGE

JUDGE
HEAD OF CONST. BENCHES

Approved for reporting