

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Constitutional Petition No. D-429 of 2024
(Zahid Hussain Kaimkhani v Federation of Pakistan & others)

Date	Order with signature of Judge(s)
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Before:
Mr. Justice Muhammad Karim Khan Agha
Mr. Justice Adnan-ul-Karim Memon

Date of hearing and order:- 06.10.2025

Mr. Abdul Zubaid advocate for the petitioner.

ORDER

Muhammad Karim Khan Agha, J: The petitioner requests this Court to:

Set aside all three main impugned orders (22-12-2020, 28-11-2022, and 29-05-2023).

Remand the case back to Respondent No. 1 (Federal Secretary) to pass a speaking and well-reasoned order after granting the petitioner an opportunity for a personal hearing.

2. The petitioner challenges the imposition of a "withholding of increment for the period of one year" penalty imposed on him. The petitioner directly challenges four departmental Original Penalty Orders dated 22-12-2020, imposing the minor penalty of withholding a one-year increment (Respondent No. 3). Appellate Order dated 28-11-2022, the which appeal was rejected, and the petitioner was condemned "unheard" the Second Appellate Order dated 29-05-2023 his appeal was rejected by the Federal Secretary (Respondent No. 1), who also stated that the petitioner had no further right of appeal. His subsequent application was turned down by Respondent No. 1, vide Order dated 27-09-2023, stating it was "not covered" under the rule. The petitioner, a long-serving ETPB employee, alleges a professional rift with a junior official (Respondent No. 4) who was given temporary charge as Deputy Administrator in 2019. The petitioner claims he was illegally relieved from his duties and his name was removed from the attendance register by Respondent No. 4, resulting in him being marked as absent for two months (May/June 2019). The petitioner maintains that he continued attending the office, and the penalty order dated December 22, 2020, passed by Respondent No. 3, was issued without proper communication or consideration of the evidence provided by him.
3. The petitioner's counsel asserts the departmental orders are illegal and void on the premise that the petitioner was "condemned unheard," as he was not given a proper opportunity for personal hearing, defense, or cross-examination, which is a flagrant violation of the maxim *audi alteram partem*. The impugned orders were passed without cogent reasons

or judicious application of mind, which is mandatory for public functionaries under Article 4 of the Constitution. The penalty was based on a "without jurisdiction" report stemming from a professional rift. The actions violate the petitioner's fundamental rights, including the right to be treated in accordance with law (Article 4) and the right to equality (Article 25). He prays to allow this petition.

4. learned AAG present in court waived the notice and raised the question of the maintainability of the instant petition and argued that no further direction is required to be issued in the present case as sufficient opportunity has been given to the petitioner to defend his case.

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

6. The petitioner was penalized in December 2020 with the withholding of one increment for one year and two months' leave without pay for absence in May-June 2019. His initial appeal to the Chairman, ETPB/Appellate Authority, was rejected on 28.11.2022 as time-barred. His subsequent appeal, dated 16.12.2022, to the Federal Secretary, RA&IH, was dismissed because he had already exhausted his right of appeal before the Appellate Authority. This court, having noted the exhaustion of all internal remedies, is disposing of the petition with pending application(s) with direction to the competent authority of respondents to pass a speaking and well-reasoned order with the backing of law, after giving the petitioner a personal hearing.

Head of the Constitution Benches

JUDGE