

# HIGH COURT OF SINDH CIRCUIT COURT, HYDERABAD

**C.P No.D-110 of 2024**

[Mohan Soothar vs. Province of Sindh and Others]

**BEFORE:**

**JUSTICE ADNAN-UL-KARIM MEMON**  
**JUSTICE RIAZAT ALI SAHAR**

Mr. Ali Asadullah Bullo, advocate for the petitioner

Mr. Muhammad Arshad Pathan, advocate for the respondent University

Mr. Rafique Ahmed Dahri, Assistant A.G. Sindh

Date of hearing & decision: 28.11.2025

## **ORDER**

**ADNAN-UL-KARIM MEMON J .-** Through this petition, the petitioner has challenged the Order dated 21.11.2022, by which he was awarded major penalty of termination from service. The review appeal filed against the said order was also dismissed vide subsequent order dated 22.12.2023.

2. The case of the petitioner is that he was appointed as Technical Officer (BS-16) on regular basis by the respondent University in 1995. After rendering satisfactory service, he was promoted to Assistant Registrar (BS-17) in 2010. Through an order dated 14.12.2013, he was granted 730 days' earned leave for personal reasons, during which he travelled abroad for treatment of liver ailment. As his treatment continued, he applied for extension of leave, but no order was passed on his application. Subsequently, on 07.07.2021, he was issued final show-cause notice for unauthorized absence. He submitted a reply along with medical documents evidencing his serious liver cirrhosis, yet no decision was taken. He thereafter applied for early retirement on medical grounds; however, instead of considering this request, the respondents terminated his services. His review appeal against the termination order was also rejected.

3. Learned counsel for the petitioner submits that the respondents failed to follow the mandatory procedural rules and their actions are without lawful authority and coram non judice; that the petitioner was suffering from serious medical ailment i.e. cancer, rendering him unable to continue his duties. He relied upon the judgment reported as **1993 SCMR 1440**, wherein the Supreme Court has held that no major penalty may be imposed without conducting regular departmental inquiry; that no such inquiry was held before imposing the major penalty of termination; that the petitioner's request for early retirement on medical grounds ought to have been considered, but the respondents acted arbitrarily to deprive him of his lawful right to pension, which is an accrued

service benefit. Reliance is also placed on **1991 SCMR 1941** and **PLD 2013 SC 829**, asserting that the petitioner should not be deprived of pension and that his termination ought to be converted into retirement on medical grounds. He prayed to allow the petition.

4. Conversely, learned counsel for the University vehemently opposed the petition. He submits that the petitioner obtained two years' leave and thereafter abandoned his duties, travelling to United Kingdom without seeking prior permission or obtaining No-Objection Certificate, which constitutes misconduct; that after expiry of his leave in 2015, he failed to resume duty, prompting initiation of disciplinary proceedings that ultimately culminated in his lawful termination; that the petitioner's appeal was considered in detail and dismissed on merit; that the petitioner violated University bylaws, caused financial loss to the institution in terms of salary and scholarship, and therefore deserves no indulgence; that the petitioner initially cited only domestic reasons for leave and failed to communicate with the University upon expiry of leave period and only when he received initial show-cause notice in 2017 he started correspondence; that final show-cause notice was issued to the Petitioner in 2021, and thereafter, he was terminated in accordance with the applicable Rules. Hence, the impugned termination is lawful, and the petition is meritless. He prayed to dismiss the petition.

5. Learned AAG supported the arguments advanced by counsel for the University.

6. The department emphasized that Petitioner was initially granted two years' leave from 19-12-2013 to 18-12-2015. However, he failed to rejoin duties and repeatedly applied for extensions of leave without pay. During this period, he traveled abroad without following the required formalities. Despite being served Show Cause Notices in 2017 and 2021, and their publication in newspapers, he did not return to duty. His case, including medical leave requests, was placed before the Syndicate in its 113th meeting on 24-09-2022. The Syndicate concluded that the petitioner committed gross misconduct under E&D Rules and passed a resolution to terminate his services with effect from 24-09-2022. He preferred a review appeal seeking conversion of his termination to compulsory retirement. His petition before this Court was disposed of with direction to decide the review within four weeks. The review appeal was considered by the Syndicate in its 115<sup>th</sup> meeting on 25-11-2023. After full consideration, the Syndicate found no justifiable grounds to alter the penalty and rejected the appeal. The Petitioner submitted that despite submitting detailed reply with medical evidence of his serious illnesses, including liver cirrhosis, prostate cancer, and subsequent treatments abroad, no consideration was given to his deteriorating health. Subsequently, he applied for early retirement on medical grounds, submitting all

relevant medical reports and hospital contacts, yet no action was taken. Instead, the Respondents issued an Office Order dated 21-11-2022 terminating his services without a proper enquiry. Aggrieved by this unilateral action and harsh penalty, he filed Review Appeal seeking conversion of termination into compulsory retirement. However, the appeal was dismissed by the Sindh Agriculture University Syndicate in its 115<sup>th</sup> meeting dated 22-12-2023.

7. The report from Oakley Surgery, Luton, UK, confirms that the Petitioner has been under continuous medical care since 2015 for multiple serious conditions. Post liver transplant, he is medically prohibited from traveling for 6 months to 1 year and continues to require specialized treatment for complications, including persistent thrombocytopenia. The treating physicians, Dr. O.J. Carey and Dr. M.R. Chowdhury, emphasize that his health conditions are severe, complex, and life-threatening and require ongoing supervision.

8. After careful examination of the submissions from both parties and detailed medical evidence, it appears that the Petitioner, Mr. Mohan Suthar, was absent from duty due to severe, life-threatening medical conditions, including liver cirrhosis, hepatocellular carcinoma, post-transplant care, thrombocytopenia, type 2 diabetes, hypertension, esophageal varices, portal vein thrombosis, and a history of prostate cancer. His medical condition necessitated hospitalization and ongoing treatment abroad, as confirmed by Dr. O.J. Carey and Dr. M.R. Chowdhury of Oakley Surgery, Luton, UK. The Respondent university terminated the Petitioner's services without conducting formal regular enquiry and without adequately considering the medical evidence and his inability to resume duties due to critical health issues. Given the seriousness of his medical conditions and the professional advice prohibiting travel, the termination of the Petitioner's services appears to be disproportionate and inequitable. Besides the respondent university failed to hold the regular inquiry with regard to the culpability of the petitioner to remain on un-authorized absence from duty as the Supreme Court has casted duty upon the departments if any of the employee services is terminated with stigma regular inquiry must be conducted whereas in the present case the respondents syndicate passed a resolution and awarded major penalty of termination from service vide order dated 21.11.2022. In such circumstances coupled with the health condition of the Petitioner as pointed out supra ought to have been considered by the respondent-university on sympathetic grounds but unfortunately they ignored this aspect of the case and continued their agenda to get rid of him from service without proper procedure as required under the law, coupled with the decisions of the Supreme Court on the subject issue.

9. In view of the foregoing, the termination imposed on the Petitioner vide office order dated 21.11.2022 and Appellate Order dated 22.12.2023 are hereby revoked / set-aside. The Petitioner's intervening service ought to be treated

regular by granting him retirement on medical grounds by converting the major penalty into compulsory retirement with all entitled service benefits. The aforementioned exercise shall be undertaken by the respondent university within one month.

This petition is disposed of in the above terms.

JUDGE

JUDGE

Karar Hussain/PS\*