

HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

CP No. D- 503 of 2018

[Abdul Ghafoor v. Federation of Pakistan & others]

BEFORE:

MR. JUSTICE ADNAN-UL-KARIM MEMON

MR. JUSTICE RIAZAT ALI SAHAR

Petitioner: Through, Mr. Muhammad Sachal R. Awan,
Advocate

Respondents: Through Mr. Fayaz Ahmed Leghari, Advocate
Mr. Shamsuddin Rajpar, D.A.G.

Date of hearing:
& Decision: 25.11.2025

ORDER

ADNAN-UL-KARIM MEMON, J. - Through instant Constitutional Petition, the Petitioner has prayed as under:-

- a. To direct the respondents to reinstate the service of the petitioner as "OPERATOR" BPS-12 with back benefits, by suspending the operation of the order dated 09.12.2009.
- b. To declare the acts of respondents for placing the petitioner under major penal action of Removal from Service are illegal, void, ab initio, and without lawful authority.

2. The case of the petitioner is that he was appointed as an Operator (BPS-12) under WAPDA on 29.05.1990 and served at the Thermal Power Station, Jamshoro. He was senior, experienced, and technically skilled, resolving critical plant issues, earning a letter of appreciation from Member (Power), WAPDA. The petitioner was granted leave from 19.11.2008 to 16.2.2009, but did not return due to personal issues at his native village in Kachho, District Dadu. On 06.05.2009, respondent No.4 issued show-cause notice, which the petitioner replied to, but it was ignored. Despite personal hearing notice on 24.06.2009, he was not heard. Respondent No.3 issued a dismissal letter on 09.12.2009, effective from 20.05.2009, and published a notice in WAPDA Khabarnama. The petitioner appealed for reinstatement, but the respondents' delayed action prompted him to file the present petition.

3. Learned counsel for the petitioner submitted that the petitioner served the respondents for about 19 years, 6 months, 10 days, as such entitles to relief for service benefits. He prayed to allow the petition.

4. Counsel for Respondents 2 to 4 filed objections, stating JPCL GENCO-1 is a company without statutory rules, making the petition non-maintainable. He argued that the petitioner's grievance falls under labour jurisdiction and NIRC, that the petition is time-barred, filed in February 2018, after nine years, and that the petitioner deliberately absented himself. He maintained that dismissal was/is legal and requested the petition's dismissal.

5. Under the Removal from Service (Special Powers) Ordinance-2000, the petitioner was issued Show Cause Notice on 06.05.2009 for alleged unauthorized absence from duty from 17.02.2009. He reported for duty on 19.05.2009 and submitted his reply on 18.05.2009, but did not appear for personal hearing scheduled on 27.06.2009 as alleged. Subsequently, the Chief Executive Officer, JPCL Jamshoro, imposed major penalty of removal from service, effective from 20.05.2009. While the disciplinary action was initiated under RSO 2000, which was valid at the relevant time, it is well-settled that courts have the authority to review such orders under constitutional jurisdiction, particularly where there is a violation of the principles of natural justice, or where procedural safeguards such as personal hearing and proper consideration of the employee's response were not fully observed. The petitioner, having served the organization for nearly 20 years, enjoyed a long and meritorious tenure. Considering his dedicated service, the extreme penalty of dismissal is disproportionate. The fact that the petitioner responded to the show-cause notice with reasonable grounds of his absence and was not granted a meaningful personal hearing constitutes a breach of natural justice.

6. In view of the above, the major penalty of removal from service imposed on the petitioner is hereby converted into compulsory retirement. The petitioner shall be entitled to all service benefits and emoluments for the said period if not earlier paid. The aforesaid exercise shall be conducted within three months.

7. This petition stands disposed of accordingly.

JUDGE

JUDGE