

ORDER SHEET
 IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
Constitution Petition No. D- 115 of 2024

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE
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Before;

Adnan-ul-Karim Memon, J;
Abdul Hamid Bhurgari, J;

Petitioner Syed Umed Ali Shah Masoomi **through**
 Mr. Muhammad Ali Napar, advocate.

Respondent No.5 Through Mr. Sundar Khan Chachar, advocate.

Respondent No.1,2,3,4,6 and7 Through Mr. Israr Ahmed Shah, Assistant
 Advocate General, Sindh.

Date of hearing and order: 2.6.2026.

ORDER.

Adnan-ul-Karim Memon J:- Through the captioned Petition the petitioner prayed that this Court to declare that the actions of the respondents are illegal, unlawful and in violation of the Sindh Small Industries Corporation Employees (E&D) Rules, 1978, and further declare that the suspension order dated 23.12.2014, dismissal/removal order dated 27.03.2017, and the appellate order dated 19.12.2023 are without lawful authority, void ab initio, and of no legal effect. It is further prayed that the petitioner may be reinstated into service with all consequential benefits, including back benefits and pensionary/retirement dues from the date of his dismissal, as if he had continued in service.

2. The case of the petitioner is that he is a retired public servant who initially joined the Sindh Small Industries Corporation (SSIC) as Estate Officer in BPS-16 in 1990 and, due to his satisfactory and unblemished service record, was promoted to the post of Regional Director (BPS-18) in 2008. He remained posted at Sukkur and performed his duties with efficiency and dedication. On 23.12.2014, however, the petitioner was abruptly placed under suspension on the basis of a physical inspection report, without any prior detailed inquiry or finding of guilt. It is urged that the

suspension was extended after a considerable delay, in violation of the applicable Efficiency & Discipline Rules, 1978, which require periodic approval of continuation of suspension. While under suspension, a show-cause notice dated 29.01.2016 was issued alleging irregularities in relation to allotment matters concerning SSIC properties. The petitioner submitted a detailed reply along with documentary evidence, explaining that all actions were taken with the approval of competent authorities and in line with official correspondence and policy directions. It is submitted that despite three separate inquiries conducted into the matter, no concrete evidence of corruption, misconduct, or financial irregularity was ever established against the petitioner. It is emphasised that the inquiry reports rather indicated that actions were taken in ignorance or misunderstanding of rules and did not impute dishonesty or corrupt intent to the petitioner. However, during the pendency of proceedings, the petitioner was dismissed from service vide order dated 27.03.2017, just a few days before his retirement, which he challenged before this Court. His earlier petition became infructuous due to the dismissal order and was disposed of. Subsequently, another constitutional petition was filed, wherein this Court directed the departmental appellate authority to decide the petitioner's appeal within a stipulated time. In compliance proceedings, the petitioner submitted his departmental appeal; however, the same remained unattended for a considerable period, compelling him to again approach this Court. Eventually, the appellate authority vide order dated 19.12.2023 dismissed the appeal and upheld the major penalty of removal from service imposed vide order dated 27.03.2017.

3. The petitioner's counsel submits that the entire disciplinary process is tainted with illegality, mala fide intent, procedural irregularities, and violation of the SSIC Employees (E&D) Rules, 1978. He further submits that suspension and its extensions were not lawfully approved, inquiry proceedings were defective, no proper opportunity of cross-examination was provided, and findings are contradictory and unsupported by evidence. It is further the case of the petitioner that similarly placed officials were reinstated, whereas he alone was subjected to harsh punishment, indicating discrimination and victimization. He submitted that the

punishment of removal from service, imposed at the verge of retirement in the year 2017 after nearly 28 years of service, is disproportionate, harsh, and contrary to settled principles of service jurisprudence. Accordingly, the petitioner's counsel asserts that the orders dated 23.12.2014, 27.03.2017, and 19.12.2023 are illegal, without lawful authority, and liable to be set aside, with consequential relief of reinstatement and back benefits, including pensionary dues. Learned counsel pointed out that his colleagues were reinstated in service with lesser punishment vide office orders dated 27.9.2017, but the petitioner was left in the lurch. Learned counsel submitted that under the settled principles of service jurisprudence, termination of service on allegations of misconduct without holding a proper inquiry constitutes illegal dismissal. Once such termination is declared unlawful and the employee is ordered to be reinstated, he added that the normal rule is that reinstatement must follow with full back benefits, unless the employer establishes through cogent evidence that the employee remained gainfully employed elsewhere during the intervening period. He submitted that where termination is found to be illegal and void ab initio, the employee is entitled to be restored to his original position along with all consequential benefits; and denial of back benefits after reinstatement amounts to penalizing an employee for no fault of his own. He prayed to allow this petition.

4. The learned Assistant Advocate General, assisted by counsel for the respondents/SSIC, opposed the petition and submitted that the petitioner is not entitled to any relief as he was found involved in violation of rules, regulations, and allotment procedure, as detailed in various inspection reports and at serial Nos. 9, 13, 14, and 39 of the record. It is further contended that due to the petitioner's actions, the Corporation suffered serious financial loss, and the matter has already been referred to the Directorate of Anti-Corruption for recovery and further legal action. It is further argued that the suspension of the petitioner was not abrupt or without reason, but was based on specific allegations of causing financial loss to the Corporation through illegal allotment of industrial/commercial plots at SIE Gambat and Rohri at old rates, in violation of directives of the competent authority. It is urged that the suspension order itself clearly mentioned that a statement of

allegations would follow. The respondents' counsel further submits that the petitioner's suspension was lawfully extended twice, and during the course of inquiry, a competent committee of officers was constituted, which submitted its findings. Based on these findings, a formal show-cause notice was issued to the petitioner. It is further stated that the petitioner himself admitted irregularities in his written statement dated 01.06.2015, wherein he expressed an apology for any acts considered irregular and sought mercy on humanitarian grounds. He emphasised that the said admission was also considered during a personal hearing conducted before the competent authority, i.e., the Minister for Industries and Commerce/Chairman SSIC, on 13.07.2016. He prayed to dismiss the petition.

5. The learned AAG also submits that after considering the inquiry findings, inspection reports, and the petitioner's own statement, the competent authority lawfully imposed a major penalty of dismissal from service under the relevant provisions of the SSIC Employees (E&D) Rules, 1978. It is further contended that the petitioner has already litigated the matter multiple times before this Court, wherein earlier petitions were either dismissed or disposed of with directions for departmental appeal, which were duly complied with. He added that the compliance reports have also been submitted before this Court, demonstrating that due process has been followed. In view of the above, it is prayed that the petition lacks merit, the impugned departmental actions are lawful and based on evidence, and therefore the petition is liable to be dismissed in the interest of justice.

6. We have heard the learned counsel for the parties and perused the record with their assistance and case law cited at the bar.

7. The record shows that the petitioner, a former Regional Director of Sindh Small Industries Corporation (SSIC), was dismissed from service on 27.03.2017 on allegations of causing financial loss to the Corporation by making industrial and commercial plot allotments at old rates, allegedly in violation of directives of the competent authority.

8. The petitioner challenged the dismissal order through departmental appeal, which remained pending for a considerable period, leading to the filing of Constitution Petitions before this Court. Ultimately, vide order dated 17.10.2023 in C.P. No. D-1004 of 2022, this Court directed the competent authority/Chairman/Minister SSIC to decide the petitioner's appeal within two months. In compliance, the appellate authority heard both parties and, vide order dated 19.12.2023, rejected the appeal and upheld the major penalty of removal from service. The appellate authority observed that the petitioner's written statement dated 01.06.2015 constituted an admission of irregularities, and no sufficient grounds were found to interfere with the dismissal order dated 27.03.2017.

9. Much emphasis has been laid on the statement of the petitioner; it appears from the record that the petitioner, in his earlier statement, had explained that allotments were made for the generation of revenue and on instructions of senior officers, without any dishonest intent or personal gain. However, he admitted that some procedural irregularities may have occurred due to urgency and administrative pressure, but denied any corruption or misappropriation. He further requested leniency on compassionate grounds, offering an apology if his actions were considered irregular, while maintaining that his long service of over 25 years was dedicated to the Corporation. Despite these explanations, the appellate authority maintained that the findings of fact in the inquiry reports and the petitioner's own statement justified the penalty and accordingly dismissed the appeal. Thus, the petitioner's dismissal from service has been consistently upheld at departmental and appellate levels, forming the basis of the present constitutional challenge.

10. A fact-finding inquiry committee constituted by the competent authority conducted inspections of Small Industrial Estates (SIE) Sukkur, Gambat, and Rohri on 01.06.2015 and submitted its findings regarding alleged irregularities in plot allotments. With respect to SIE Sukkur, the committee observed that originally allotted industrial plots had already been exhausted, and certain "garden/unshaped" plots were later converted into industrial plots with the approval of the SSIC Board. However, it

was found that amenity plots and non-industrial spaces, including passage areas, sewerage lines, water reservoirs, and open land near the Regional Office, were converted and allotted without following proper procedure. Some of these actions were stated to have been taken in violation of rules and without proper approval, including demolition of infrastructure such as an overhead water tank. The committee noted that such allotments were irregular and likely to create legal complications for SSIC. These actions were attributed to the then Regional Director, the present petitioner, due to ignorance or non-compliance with rules. Regarding SIE Gambat, the report noted that despite directions from higher authorities and a proposal for enhancement of plot rates from Rs. 200/- to Rs. 600/- due to market conditions, industrial plots were allotted on old rates. This was considered a violation of the directives of the competent authority, resulting in financial loss to SSIC. However, one official stated that allotments were made under administrative pressure and later expressed regret, asserting that no actual loss was intended. In relation to SIE Rohri, similar findings were recorded. The Estate Office allotted industrial plots on old rates in violation of instructions of the Managing Director, SSIC, and commercial plots were also allotted without proper procedure, including without open auction. These actions were also termed irregular, though the concerned official stated that decisions were made under pressure of higher authorities and in view of the financial constraints of SSIC, and later sought an apology. The committee concluded that the then Regional Director, Sukkur/petitioner, along with concerned Estate Officers, were involved in irregularities in the allotment of industrial and commercial plots across Sukkur, Gambat, and Rohri. The committee relied on earlier inspection reports and findings of inquiry committees, and opined that the actions constituted violations of rules and procedural requirements. However, during proceedings, the petitioner maintained that actions were taken under administrative pressure and for the financial improvement of SSIC, denying any corrupt intent or personal gain, while acknowledging procedural irregularities and seeking forgiveness on humanitarian grounds.

11. It appears from the record that the petitioner, in response to the show-cause notice dated 29.01.2016, denied the allegations of misconduct, corruption, and causing financial loss to the Sindh Small Industries Corporation (SSIC). He asserted that his suspension and its subsequent extensions were not carried out in accordance with Rule 5(1) of the SSIC Employees (Efficiency & Discipline) Rules, 1978, as approval for continuation of suspension was not obtained within the prescribed period. The petitioner maintained that no amenity plots, parks, or reserved public spaces were allotted by him. According to him, the plots in question were open and unutilized spaces which had been treated as industrial plots in pursuance of policy decisions and directions of the competent authority aimed at safeguarding SSIC properties from encroachment and generating revenue for the financially distressed Corporation. He relied upon various official communications, summaries approved by the Minister/Chairman SSIC, and delegated powers vested in Regional Directors to contend that his actions were taken in good faith and within the scope of authority conferred upon him. About plots E-2 to E-9 at SIE Sukkur, the petitioner stated that the relevant site plans had been prepared by the technical staff and that allotments were made after obtaining approvals and acting upon directives issued by senior officers, including the Chief Engineer, who had specifically authorized demolition of an overhead water tank and utilization of the resulting vacant space in accordance with SSIC policy. He further asserted that allotments made at SIE Gambat on old rates were processed before receipt of revised rates and that certain allegations, including amalgamation of plots Nos. 29 and 30, pertained to transactions made long before his tenure. The petitioner also explained that commercial plots at SIE Rohri were allotted for the purpose of generating income for SSIC during a period of severe financial crisis and in a manner consistent with previous practices. He emphasized that no ban on allotment was operative at the relevant time and that his actions resulted in revenue generation rather than financial loss. In support of his defence, the petitioner relied upon earlier physical verification reports and policy recommendations prepared by SSIC committees in 2010, which had identified various unused buildings, open spaces, abandoned facilities, and encroachments at different

industrial estates and had recommended conversion, commercialization, auction, rental, or other productive utilization of such properties to safeguard SSIC assets, generate income, and prevent encroachment by land grabbers. According to the petitioner, his actions were consistent with these policy objectives and departmental directions. The petitioner further contended that despite multiple inquiries, no evidence of personal gain, embezzlement, corruption, misappropriation, or mala fide intention was ever established against him. He maintained that any procedural irregularities, if any, occurred in the course of implementing departmental policies under pressure to improve the Corporation's financial position and not for any unlawful benefit.

12. From the material placed on record, it emerges that the allegations against the petitioner primarily relate to irregular allotment of plots at Small Industrial Estates Sukkur, Gambat, and Rohri, including allotment of certain plots on old rates, conversion and allotment of open spaces, and alleged non-observance of prescribed procedure.

13. However, a careful examination of the inquiry reports, the petitioner's explanation, and the departmental record prima facie reveals that the case is not one of proven corruption, embezzlement, misappropriation, personal gain, or dishonest motive. Rather, the allegations revolve around procedural irregularities and administrative decisions taken by the petitioner while discharging his official functions as Regional Director/Estate Officer.

14. The inquiry reports themselves acknowledge that many of the actions complained of were undertaken in the backdrop of severe financial constraints being faced by the Corporation and in furtherance of departmental policies aimed at generating revenue and safeguarding unused assets from encroachment. The petitioner consistently maintained that the allotments were made pursuant to policy directives, delegated powers, and instructions issued by superior officers.

15. Significantly, the record contains official summaries and recommendations of various committees constituted by SSIC as early as 2010, wherein commercialization, conversion, auction, rental, and productive utilization of unused spaces, abandoned buildings, and open lands were proposed as measures to improve the financial condition of the Corporation and prevent encroachments. The petitioner's stance that his actions were guided by such policy considerations, therefore, prima facie, cannot be said to be wholly unsupported by the record.

16. It is also noteworthy that despite repeated inquiries, the respondents have failed to place on record any material demonstrating that the petitioner derived any personal benefit from the allotments in question or that any amount was misappropriated by him. Neither the inquiry reports nor the appellate order record a categorical finding of corruption, fraud, dishonesty, or misconduct involving moral turpitude. Rather, the inquiry committee itself observed that the petitioner attributed the decisions to administrative pressure from higher authorities and sought forgiveness for procedural lapses, if any. Such an explanation may amount to an acknowledgment of irregularity but cannot automatically be construed as an admission of corruption or financial dishonesty.

17. The appellate authority has principally relied upon the petitioner's statement dated 01.06.2015 as an admission of guilt. However, a plain reading of the said statement shows that the petitioner merely acknowledged the possibility of certain procedural irregularities having occurred under administrative pressure and in the context of revenue generation for the Corporation. Simultaneously, he expressly denied any misappropriation, corrupt practice, mala fide intention, or personal gain.

18. It is a settled principle of law that an apology or request for leniency cannot, by itself, be treated as conclusive proof of misconduct warranting the severest punishment unless supported by independent and convincing evidence.

19. This Court is further mindful of the fact that the petitioner had rendered approximately Twenty Eight years of service in the Corporation and was removed from service only a short time before attaining superannuation. The effect of such removal was not merely termination of employment with stigma based on fact-finding inquiry, not regular inquiry as required under the law, but deprivation of pensionary and retirement benefits earned through long years of service.

20. It is a settled principle of law that a fact-finding inquiry is distinct from a regular inquiry under the E&D Rules. The former is conducted merely to collect information, ascertain facts, and determine whether a prima facie case exists for initiating disciplinary proceedings, as the purpose is not to determine guilt or innocence. In contrast, a regular inquiry commences after issuance of a show-cause notice and consideration of the employee's reply. During such inquiry, the delinquent must be afforded a fair opportunity of defence, including the right to produce evidence and cross-examine witnesses. In Faisal Ali v. District Police Officer, Gujrat (2025 SCMR 92), the Supreme Court reaffirmed that while a fact-finding inquiry is preliminary in nature, the determination of guilt or innocence can only be made through a regular inquiry conducted in accordance with the prescribed rules and principles of natural justice, which factum is missing in the present case.

21. Further guidance can be drawn from Usman Ghani v. The Chief Post Master, GPO, Karachi, and others (2022 SCMR 745), wherein it was reaffirmed that a major penalty such as dismissal from service cannot be imposed without conducting a regular inquiry and affording the civil servant a fair opportunity of hearing. Any action taken in violation of these requirements offends the principles of natural justice and is liable to be set aside.

22. In service jurisprudence, the doctrine of proportionality requires that punishment must correspond with the nature and gravity of the misconduct proved. Where allegations relate to procedural irregularities committed in the discharge of official duties, and where no finding of corruption, embezzlement,

personal enrichment, or mala fide intent is established, imposition of the extreme penalty of removal from service with stigma is generally regarded as disproportionate and excessive.

23. The record further reflects that the respondents have not satisfactorily addressed the petitioner's contention regarding the differential treatment of other officials allegedly involved in the same transactions. The inquiry reports themselves refer to the role of Estate Officers and higher authorities, yet no material has been produced demonstrating that similar action was uniformly taken against all concerned officials. Such selective imposition of the harshest penalty upon the petitioner alone raises a legitimate concern regarding fairness and proportionality.

24. While this Court does not sit as an appellate forum to reappraise departmental findings in every case, judicial review is warranted where findings are unsupported by evidence, relevant material is ignored, or punishment shocks the judicial conscience.

25. In the present case, prima facie no corruption, embezzlement, or personal gain has been established, coupled with the existence of departmental policies encouraging commercialization of unused assets, the petitioner's long and otherwise unblemished service career, and the fact that the penalty was imposed immediately before retirement, persuades this Court to hold that the punishment of removal from service without regular inquiry as directed by the Supreme Court in the case of *Senior General Manager Vs Syed Qaiser Abbas* **2026 SCMR 576** is grossly disproportionate to the nature of misconduct as alleged.

26. So far as the issue of back benefits is concerned, the Supreme Court, in its various pronouncements, categorically held that once reinstatement is ordered after illegal dismissal, the employee is entitled to full back benefits unless gainful employment during the intervening period is proved by the employer.

27. Consequently, while the petitioner cannot be completely absolved of responsibility for procedural deviations and

irregularities found in the allotment process, the extreme penalty of removal from service cannot be sustained in law in terms of the decision of the Supreme Court in the case of Sanaullah Sani Vs Secretary Education **2024 SCMR 80**. The ends of justice would be adequately met by converting the penalty of removal from service into a lesser penalty commensurate with the procedural irregularity or misconduct, thereby preserving the petitioner's pensionary and retirement benefits earned through long service.

28. Accordingly, the impugned dismissal/removal order dated 27.03.2017, as affirmed through the appellate order dated 19.12.2023, are set aside and modified to the extent of lesser penalty as discussed in the preceding paragraph, and petitioner shall be deemed to have retired from service on attaining the age of superannuation, by issuing his retirement notification forthwith with by the competent authority, entitlement to pensionary and all retirement benefits as admissible under with law, based on the decisions of the Supreme Court on the subject issue, subject to any lawful deductions, if applicable.

29. This petition is disposed of along with pending application(s) in the above terms.

JUDGE

JUDGE

Nasim/P.A