HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

C.P. No.D-1820 of 2024
[Asif Ali Shar vs. Province of Sindh and others]

Before:
JUSTICE ADNAN-UL-KARIM MEMON
JUSTICE MUHAMMAD JAFFER RAZA

Petitioner:	By Mr. Ishrat Ali Lohar advocate
Respondents 1,6&7:	By Mr. Rafique Ahmed Dahri, Additional A.G Sindh
Respondents 2to4:	By M/s Parkash Kumar and Ravi Kumar advocates
Respondent No.5:	None present
Date of hearing	20.10.2026
Date of Decision	20.10.2026

O R D E R

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ADNAN-UL-KARIM MEMON J:- Petitioner prayed for following relief:

a) Declare that the Deputy Superintendent of Police lacks jurisdiction to entertain complaints under the Protection against Harassment of Women at Workplace Act, 2010, and that all consequential proceedings, including those before Respondent No. 7, are without lawful authority.

b) Declare the order passed by Respondent No. 7 to be unlawful and without legal effect.

c) Set aside the orders dated 23.03.2024, 18.04.2024 and 23.04.2024, including the termination order dated 23.04.2024, for want of lawful jurisdiction and competence.

d) Direct reinstatement of the petitioner with salary and other service benefits pending final adjudication of the harassment complaint.

e) Restrain Respondents Nos. 2 to 4 from taking further adverse or coercive action against the petitioner.

f) Alternatively, remand the matter to Respondent No. 7 or the University's Inquiry Committee for fresh proceedings in accordance with law.

g) Grant any other appropriate relief deemed just and proper.

h) Award costs of the petition.

2. Learned counsel for the petitioner submits that the petitioner has been serving as Deputy Director Finance (BPS-18) at Shaheed Allah Bux Soomro University of Arts, Design and Heritage, Jamshoro, since 18.01.2016, with an unblemished service record. The petitioner was initially suspended through order dated 23.03.2024 and subsequently removed from service through impugned orders dated 18.04.2024 and 23.04.2024, without issuance of any charge-sheet or show-cause notice, disclosure of the complaint, or conduct of a lawful inquiry under the Protection Against Harassment of Women at Workplace Act, 2010, or the applicable Efficiency and Discipline Rules. The petitioner maintains that the complaint allegedly submitted by a contractual employee, Ms. Raheela Awan, before DSP, Girls Rescue Centre Jamshoro, was never processed in accordance with the prescribed procedure, nor was the petitioner afforded an opportunity of hearing. Learned counsel further submits that the impugned orders were issued by Respondent No.3 without lawful authority or approval of the Syndicate, which, according to the petitioner, is the competent authority under the University's governing framework to take disciplinary action against an officer of BPS-18. He argues that the order dated 23.04.2024, purportedly correcting the earlier order dated 18.04.2024 by changing the cited provision of the Act, was issued without any lawful proceedings and is therefore coram non judice, arbitrary and violative of the principles of natural justice and Article 10-A of the Constitution. The petitioner also challenges the jurisdiction of DSP to entertain the harassment complaint, asserting that the matter could only be dealt with by the competent University Inquiry Committee or the Provincial Ombudsman in accordance with law. It is further contended that the petitioner filed a departmental appeal, which remains undecided, despite the Vice-Chancellor acknowledging that the matter was required to be placed before the Syndicate for appropriate orders. The petitioner alleges that his removal was motivated by personal animosity arising from measures taken to regulate the University's financial affairs, restrict unauthorized expenditure and safeguard its funds, and claims that approximately Rs.30 million was subsequently misappropriated from the University's Endowment Fund without the requisite approval. He maintains that the respondents acted mala fidely, in excess of jurisdiction and in violation of the prescribed procedure, resulting in his unlawful deprivation of service and livelihood. The petitioner, therefore, seeks setting aside of the impugned orders dated 23.03.2024, 18.04.2024 and 23.04.2024.

3. Learned A.A.G. assisted by the learned counsel for respondents-university submits that the petition is misconceived and not maintainable, as the petitioner has already challenged the impugned orders in C.P. No. D-998 of 2024, which is pending before this Court, and his departmental appeal is also pending before the Syndicate. It is contended that the petitioner has an efficacious remedy under the Protection against Harassment of Women at the Workplace Act, 2010, and is not an aggrieved person to invoke the constitutional jurisdiction of this Court. It is

submitted that respondent No. 5 lodged a harassment complaint on 19.03.2024, followed by a preliminary inquiry and referral of the matter to the duly constituted Women Harassment Committee. After conducting proceedings on five dates and examining the available record, the Committee submitted its report dated 17.04.2024. On the basis thereof, respondent No. 3 passed the order dated 18.04.2024, subsequently corrected on 23.04.2024 to rectify a typographical error regarding the applicable penalty provision. He submits that the action was approved by the Syndicate in its meeting dated 15.06.2024, vide Resolution No. 4.06. It is further contended that the petitioner also filed Appeals No. 01 of 2024 and 02 of 2024 before the Provincial Ombudsman, Sindh, which were dismissed vide decision dated 20.11.2024 after hearing the parties and examining the record. The respondents allege that the petitioner admitted to harassing respondent No. 5, persistently pressurized her to marry him, sent 452 WhatsApp and social-media messages, many of which were unethical and vulgar, and followed her within and outside the university premises. It is maintained that the petitioner participated in the proceedings, tendered an apology, and was afforded a full opportunity of hearing. Learned counsel for the respondent-university further submits that the petitioner has concealed material facts, made baseless allegations, and failed to approach this Court with clean hands. He added that the impugned action was taken under the Protection against Harassment of Women at the Workplace Act, 2010, and not under the departmental efficiency and discipline rules. Accordingly, the petition is liable to be dismissed for non-maintainability and lack of merit.

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

5. The petitioner’s challenge to the impugned orders is not sustainable merely on the grounds of want of jurisdiction, absence of notice, or alleged non-approval by the Syndicate, for the reason that the harassment complaint dated 19.03.2024 was referred to the duly constituted Women Harassment Committee, which conducted proceedings on five dates and submitted its report dated 17.04.2024, whereafter the competent authority passed the order dated 18.04.2024, subsequently corrected on 23.04.2024.

6. The petitioner’s contention that the Deputy Superintendent of Police lacked jurisdiction to adjudicate the complaint does not, by itself, invalidate the subsequent proceedings conducted by the University’s Committee and the competent statutory forum. Furthermore, the respondents assert that the petitioner participated in the proceedings and was afforded an opportunity of hearing, while Appeals No.01 of 2024 and 02 of 2024 were dismissed by the Provincial Ombudsman, Sindh, on 20.11.2024. The petitioner’s allegations of mala fide, personal animosity and financial irregularities, being disputed questions requiring evidence, cannot be accepted merely on assertions.

7. Similarly, the subsequent approval of the Syndicate dated 15.06.2024, vide Resolution No. 4.06, is a relevant circumstance against the objection regarding absence of approval, subject to the University's governing statute and the legal effect of such approval.

8. The petitioner’s plea of violation of natural justice and Article 10-A of the Constitution needs to be assessed against the actual inquiry record and the applicable statutory procedure, rather than on the mere assertion that no lawful proceedings took place. The impugned order shows that on the recommendation of the committee and report submitted by DSP and subsequent order of the competent authority dated 18.4.2024 whereby petitioner was served with major penalty removal from service under Section 4(ii)(b) of the Protection against Harassment of Women at the Workplace Act, 2010.

9. Petitioner also filed Appeals and the same were dismissed on the premise that petitioner being a senior officer posted as Deputy Director Finance misused his authority by taking information of respondent No.4 from subordinate staff and by doing so he violated the fundamental rights of privacy of respondent No.5 as guaranteed to her under Article 14(1) of the Constitution of the Islamic Republic of Pakistan and he attempted to pressurize the respondent No.5 to marry him despite her refusal as such he created hostile environment and continued sending vulgar messages to her and lastly the learned Ombudsman maintained the findings of the Inquiry Committee and decisions taken thereafter by the competent authority.

10. It appears that Section 9 provides representation to the President or Governor. Any person aggrieved by a decision of Ombudsman under subsection 5 of Section 8 may within thirty days of the decision make a representation to the President or Governor as the case may be, who may pass such order thereon as he may deem fit. However, the petitioner has directly approached this court on 13.12.2024 and the grounds agitated by the petitioner can also be agitated in representation before the competent authority as this court cannot give concrete finding upon the findings of the Appellate Authority as the representation is provided against the decision of the learned Ombudsman.

11. The petitioner’s assertion that the Vice Chancellor is only empowered in respect of employees in BPS-1 to BPS-16 and the power of appointment in BPS-17 and above is syndicate and only Syndicate is empowered to impose penalties upon such employees as the competent authority has already been defined; as such the order passed by the Vice Chancellor is corum non judice and cannot qualify as a decision of the competent authority; therefore, the Appeal filed before the Ombudsman was misconceived due to bona fide mistake; however, the same does not cure the inherent illegality. Besides he alleged that the representation before the Governor is not an efficacious remedy as Section 9 applies only to the decisions

passed under Section 8 by the Ombudsman after proper inquiry; however, in the present case the initial inquiry itself is void and illegal hence subsequent remedies are rendered ineffective. He also added that representation lies only against a valid and lawful decision and not against an order which is non-est. He also raised so many other points; however, these points could be raised in representation / appeal as discussed supra, as this court under Article 199 cannot undertake such exercise to look into the factual aspect of the case which is the function of the competent authority under the relevant law.

12. In view of the above, the petitioner has not established sufficient grounds for interference under Article 199 of the Constitution, particularly when the same impugned orders are stated to be under challenge in C.P. No. D-998 of 2024 and the departmental appeal was also pending before the Syndicate, subject to verification of the present status and the precise relief sought in the earlier proceedings.

13. The dismissal of the appeals by the Provincial Ombudsman on 20.11.2024 further provides a statutory appellate determination, which cannot ordinarily be reopened through a parallel constitutional petition under Article 199 of the Constitution without establishing a recognized ground for judicial review.

14. Accordingly, the petition to the extent of seeking direct reinstatement, reconsideration of disputed factual allegations, or substitution of this Court’s assessment for that of the competent statutory forum, is dismissed. The petitioner may avail the remedy of appeal / representation or other appropriate proceedings against the decision of the Provincial Ombudsman, Sindh, dated 20.11.2024, before the competent forum, within the prescribed limitation and in accordance with the Protection Against Harassment of Women at the Workplace Act, 2010, as applicable, and may raise any legally sustainable objection regarding jurisdiction, denial of due process, or competence of the authority therein. Any question of limitation, maintainability or condonation of delay shall be determined by the competent forum in accordance with law.

JUDGE

JUDGE

Karar_Hussain/PS*