HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

C.P. No.D-2025 of 2025

[Hadi Bux Khokhar vs. Province of Sindh and Others]

Before:

JUSTICE ADNAN-UL-KARIM MEMON
JUSTICE MUHAMMAD JAFFER RAZA

Petitioner:	By M/s Malik Naeem Iqbal and Muhammad Saleem Khaskheli, Advocates
Respondent No.1	By Mr. Rafique Ahmed Dahri, Additional A.G
Respondents No.2&4	By Mr. Muhammad Ali Lakhani, Advocate
Intervener	By M/s Syed Muhammad Saulat Rizvi and Syed Muhammad Mehdi Raza, Advocates
Date of hearing	13.10.2026
Date of Decision	13.10.2026

O R D E R

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ADNAN-UL-KARIM MEMON J:- The petitioner seeks setting aside of the dismissal orders dated 10.10.2025, reinstatement with all consequential and back benefits, and a declaration that he is a regular employee and that his regularization is a past and closed transaction.

2. The petitioner claims that he was appointed as Junior Clerk (BPS-11) in the Sindh Textbook Board (STBB) on contract basis from 01.07.2018 to 01.07.2019, having previously served as Software Developer through a third-party contractor and as Programmer on daily wages. His services were regularized with effect from 09.08.2019 pursuant to Board of Governors' Resolution dated 10.07.2019. Although the regularization order was withdrawn on 11.09.2019, its operation was suspended by this Court on 10.10.2019 in C.P. No. D-2351/2019. An inquiry committee subsequently declared his regularization lawful, resulting in withdrawal of the cancellation order on 21.01.2021. The Board of Governors revalidated his regularization on 16.02.2023, followed by an order dated 09.03.2023, and he was promoted to Senior Clerk (BPS-14) on 15.08.2023. The petitioner maintains that the matter had attained finality. However, a fresh inquiry was conducted in July 2025 without associating him or providing an opportunity of hearing. Following a show-cause notice dated 23.09.2025, his reply and personal hearing, he was dismissed vide order dated 10.10.2025. Another order of the same date purportedly containing reasons for dismissal was subsequently issued, which he alleges was *mala fide* and self-contradictory. His departmental appeal remained undecided at the time of filing the petition. He challenges the dismissal as illegal, arbitrary and

violative of his fundamental rights, including due process and protection against double jeopardy.

3. Learned counsel for the petitioner contends that his regularization had already been upheld through the earlier inquiry and office order dated 21.01.2021, and reopening the matter violates Article 13 of the Constitution. He argues that dismissal without a lawful inquiry and adequate opportunity of defence violates natural justice. He alleges *mala fides*, a predetermined decision, and backdating of the Chairman's order, particularly as the relevant letter was dispatched on 15.10.2025 despite bearing the date 10.10.2025. He further submits that the allegations do not justify the major penalty imposed and that the petitioner's service record is unblemished. He seeks setting aside of the dismissal orders and reinstatement with consequential and back benefits.

4. Learned counsel for respondent Nos. 2 to 4 submits that the petition is not maintainable and that the Board of Governors dismissed the departmental appeal on 17.11.2025, upholding the impugned order. He adds that the proceedings were initiated following complaints, Pakistan Citizen Portal submissions, and audit observations concerning irregularities in appointment, regularization, and promotion in the respondent department. The inquiry also revealed that appointments were made without open advertisement or competitive selection, premature regularization of service without lawful authorization or Board ratification, and promotion without prescribed training. The counsel for respondents contended that the action complied with this Court's order dated 02.10.2025 in C.P. No. D-1548/2025, and that the petitioner received a show-cause notice, submitted his reply, and was granted a personal hearing as such there is no violation. He argues that, 2020 inquiry did not consider subsequent complaints, audit objections, and relevant judicial decisions; therefore, the competent authority could revisit the matter. He states that Article 13 does not bar administrative scrutiny of an unlawful appointment, while earlier administrative orders cannot validate an appointment / regularization contrary to mandatory rules. The learned counsel emphasized that the petitioner cannot claim any vested right to regularization or subsequent promotion merely on the basis of earlier administrative orders, particularly where the initial appointment, premature regularization, and promotion were made in violation of the prescribed recruitment rules, competitive selection process, and eligibility criteria. He adds that any action taken contrary to the governing statutory framework cannot be validated merely by administrative approval or a Board resolution, nor can an earlier inquiry report, in the absence of a competent and lawful determination, be treated as conclusive proof of the legality of such appointments / regularization. He submits that the competent authority is empowered to examine the matter in accordance with law and take appropriate action where the record discloses material irregularities, subject to observance of

due process and the principles of natural justice. The contention that dismissal cannot be sustained merely because irregularities have been alleged does not assist the petitioner, as the impugned action is founded upon specific charges supported by the available record and established through lawful proceedings. In support of his contentions he relied upon the cases of Syed Mubashir Raza Jaffri and others v. Employees Old-age Benefits Institutions (EOBI) through President of Board, Board of Trustees and others (2014 SCMR 949), Akhtar Ali v. Province of Punjab (1992 PLD 127), Shakeeluddin v. Habib Bank Limited, Karachi (1995 PLC 166), Muhammad Eiden Qureshi v. Deputy Commissioner, Hyderabad, M.A. Motaleb v. Chairman, Khulna Development Authority, M. Noman v. Dacca Improvement Trust and others (1964 PLD 671 and CPLAs 800 & 1581 of 2023 and Cr. Appeal 383 of 2023. The learned counsel for respondents seek dismissal of the petition with costs.

5. Learned counsel for the intervener submits that the petitioner's appointment and regularization violated the prescribed recruitment procedure and merit-based selection process initiated through advertisement dated 25.10.2018. He relies upon judgments of this Court, upheld by the Supreme Court, directing similarly situated employees to participate in the competitive recruitment process. The second inquiry identified irregularities in appointment, regularization and promotion, including circumvention of the Board of Governors and recruitment rules. He maintains that the fresh inquiry was justified because the earlier inquiry did not consider the relevant judicial decisions, and seeks impleadment as a necessary and proper party..

6. We have considered the submissions of learned counsel or the parties, including the intervener, and examined the available record in light of the Sindh Textbook Board Ordinance, 1970, the Sindh Textbook Board Employees (Efficiency and Discipline) Rules, 1977, and case law cited at the bar.

7. The respondents' contention that the petitioner's appointment, regularization and subsequent promotion were contrary to the prescribed recruitment rules, merit-based selection process and decisions of the Board of Governors may justify examination of the matter by the competent authority; however, such allegations do not, by themselves, establish misconduct on the part of petitioner warranting the major penalty of dismissal without strict compliance with the Sindh Textbook Board Employees (Efficiency and Discipline) Rules, 1977. The earlier Fact-Finding Committee, through its report followed by the office order dated 21.01.2021, had examined the legality of the petitioner's regularization and recommended restoration thereof, while the Board of Governors subsequently revalidated his regularization on 16.02.2023 and he was promoted on 15.08.2023. Although these administrative decisions do not necessarily preclude reconsideration of an appointment alleged to be made contrary to mandatory recruitment rules. However, the respondents were required to identify the legal

basis for reopening the matter, reconcile their action with the previous decisions and judicial orders, and establish the petitioner's individual liability through a lawful process. The plea that the earlier inquiry did not consider subsequent complaints, audit objections or judicial pronouncements cannot dispense with the requirements of a fair and impartial inquiry, nor can the invocation of Rule 6(3) justify departure from the prescribed procedure without demonstrating that the case lawfully falls within its scope. Equally, Article 13 of the Constitution cannot automatically be treated as a bar to fresh administrative scrutiny, but neither can it be invoked or disregarded without examining whether the subsequent proceedings constitute a second prosecution and punishment for the same offence within its legal meaning. The respondents' reliance upon Syed Mubashir Raza Jaffri (2014 SCMR 949) and the other cited authorities, to the extent that they concern appointments made contrary to statutory recruitment requirements, does not resolve the distinct question whether the impugned disciplinary action was taken by the competent authority, on legally sustainable grounds and in accordance with due process. The allegations of irregular appointment cannot if any render procedural safeguards dispensable or convert disputed allegations into established misconduct, on the part of petitioner as it was for the competent authority at the relevant time to look into the matter at their end but they failed and now they raised hue and cry that the appointment and regularization of the petitioner was irregular.

8. Moreover, the issuance of show-cause notice dated 23.09.2025, submission of a written reply and grant of a personal hearing on 06.10.2025 do not, without more, establish compliance with the Rules where the petitioner specifically disputes the fairness and legal sufficiency of the underlying inquiry and the basis for imposing dismissal under the law. The respondents were required to demonstrate that the charges were precisely formulated, the material relied upon was disclosed, the petitioner was afforded an effective opportunity to controvert the adverse evidence and cross-examine witnesses wherever required, and the competent authority independently considered his defence before imposing the major penalty. The distinction between the inquiry committee's recommendation to rescind regularization and restore the petitioner to his previous contractual or daily-wage status, and the competent authority's imposition of dismissal, also required a reasoned determination explaining the legal basis and proportionality of the penalty ultimately selected. The allegation that a reasoned order was subsequently issued but bore an earlier date, having allegedly been dispatched on 15.10.2025, further required examination against the contemporaneous official record rather than acceptance or rejection merely on assertion. We are of the view that the dismissal orders dated 10.10.2025 and the appellate decision dated 17.11.2025, therefore, cannot be sustained in their present form as the prescribed procedure and the foregoing requirements were / are not fulfilled.

9. Accordingly, the petition is allowed to the extent that the impugned dismissal orders and appellate decision are set aside and the service of the petitioner is reinstated forthwith by remitting to the competent authority for fresh regular inquiry / proceedings strictly in accordance with the 1977 Rules, after communicating the precise charges and relevant material, affording an effective opportunity of defence, including cross-examination wherever legally required, and considering the previous inquiry reports, Board resolutions, relevant judicial decisions and the petitioner's objections through an independent and reasoned determination through regular inquiry within three months. The back benefits shall depend upon the outcome of the regular inquiry. All pending applications stand disposed of in the above terms.

JUDGE

JUDGE

Karar_Hussain/PS*