IN THE HIGH COURT OF SINDH AT KARACHI

Civil Suit No.1231 of 2006

Muhammad Ibrahim Hajano---------- Plaintiff

Versus

Pakistan State Oil Company Limited----------Defendant

Dates of hearing:	**27.10.2016, 22.11.2016 & 28.03.2017.**
Date of Judgment:	**15.05.2017**
Plaintiff:	**Through Mr. Khalid Imran, Advocate.**
Defendant:	**Through Mr. Muhammad Humayon, Advocate.**

J U D G M E N T

Muhammad Junaid Ghaffar, J. Through this Suit the Plaintiff has sought the following relief(s):-

i) To declare and hold that the termination order dated 10-12-2002 is illegal and unlawful and it has been issued without lawful authority and quite in an illegal manner.

ii) Further to hold that the plaintiff was entitled to be retained in service lawfully till his retirement in 2013 (till his superannuation).

iii) The plaintiff is entitled for recovery of an amount of Rs.46,141,373.66/- as present and future and economic damages as the plaintiff was entitled for recovery of the same being his legal dues in terms of salary and other benefits as per his entitlement and so also amount accumulated on his provident fund.

iv) The order the defendants to pay an amount of Rupees One Crore to the plaintiff being compensation, beside the amount in the above preceding paras.

v) To order the defendants to pay to the plaintiff the above amount along with the markup prevailing at market rate till final realization of the entire amount.

vi) To awards gratuity amount of Rs.6,477,685/- as his last pay would have Rs.194,350x33.33.

vii) To grant pensionary benefits at the rate of Rs.64,776/- per month.

viii) To award all service benefits available to the employees of the defendants if announced subsequently during the period up till November 2013.

ix) To grant any other better relief as deemed it and proper in the circumstances of the case in favour of the plaintiff.

x) Award costs of the suit.

2. Precisely the facts as stated appear to be that the Plaintiff was working in Defendant Establishment as Senior Accounts Executive, Treasury Department and was dismissed through an Order dated 16.10.1998 against which an appeal was preferred before the Federal Services Tribunal and vide Judgment dated 04.07.2002, the dismissal order was set-side by reinstating the Plaintiff into service and to face a fresh enquiry in respect of Charge Sheet, which was already served upon the Plaintiff. Such exercise was required to be carried out within a period of 3 months, whereas, thereafter Plaintiff was reinstated in service and subsequently after conducting an enquiry, the Plaintiff was again dismissed vide Order dated 10.12.2002, which was again impugned before the Federal Services Tribunal at Karachi through Service Appeal No.09/2003 and during pendency of this appeal, Judgment in the case of ***Mubeen-us-Salam and others versus Federation of Pakistan through Secretary, Ministry of Defence and others*** **(PLD 2006 SC 602)** was announced and therefore, the appeal of the Plaintiff stood abated

vide order dated 23.7.2008, and now such order of dismissal has been impugned through instant Suit.

3. After issuance of summons, written statement was filed by the Defendant and vide Order dated 02.03.2009, the following Issues were settled:-

1. Whether the suit is maintainable in law?
2. Whether the service of the plaintiff was terminated legally on 10.12.2002?
3. Whether the judgment of the Federal Service Tribunal dated 4.7.2002 was implemented in letter and spirit?
4. Whether the plaintiff is entitled to be retained in service till 2013?
5. Whether the plaintiff is entitled to be relief claimed in prayer clause of his suit?
6. What should the decree be?

4. Learned Counsel for the Plaintiff has contended that the Plaintiff was working as an Accounts Officer and after its first dismissal there were certain directions given by the Federal Services Tribunal in respect of the enquiry, which was to be conducted afresh, whereas, the impugned order has been passed in violation of the mandate given by the Federal Services Tribunal. Per learned Counsel such enquiry was to be conducted within three months, whereas, there were directions by the Tribunal to provide certain documents, which have not been done. In support he has relied upon the case reported as **1985 PLC (Labour) 984** ***(Sindh Road Transport Corporation, Mirpurkhas v. Hafiz Abdul Qadir)***. He has further contended that though a specific request was made for providing certain documents, however, the same was not acceded to and the impugned order was passed. He has further contended

that the enquiry has not specifically alleged that any fault was committed by the Plaintiff; rather his efforts have always been appreciated by the management of the Defendant. According to the learned Counsel the enquiry did not implicate the Plaintiff, whereas, the mode and manner in which the enquiry was conducted i.e. in a questions and answers form, was also against the judgment reported as **PLC 1998 (C.S) 1338** ***(Shakeel Ahmed v. Commandant 502 Central Workshop E.M.E, Rawalpindi and another).*** He has further submitted that out of the three charges, the Plaintiff has been exonerated in two, and on the basis of one charge has been dismissed from the service. In such circumstances, learned Counsel submitted that Plaintiff is entitled for Judgment and Decree as prayed. He has relied upon the cases reported as **2009 PLC (C.S) 477** ***(Zarai Taraqiati Bank Ltd., Islamabad and another v. Aftab Ahmed Kolachi and another)***, **2012 PLC (C.S) 574 (Abdul Majeed Khan v. Tawseen Abdul Haleem and others)**, **2006 PLC (C.S) 272** ***(Mehboob Rabbani v. Habib Bank Limited)***, **PLD 1993 Karachi 775** ***(Zafar Mirza v. Mst. Naushina Amir Ali)*** and **PLD 1988 Karachi 460** ***(K.A.H. Ghori v. Khan Zafar Masood and another)***.

5. On the other hand, learned Counsel for the Defendant has contended that the relationship in this matter is to be governed on the Principle of Master and Servant and there is no dispute to that effect. Per learned Counsel a proper enquiry was conducted, whereas, there are no such rules within the Defendant's Organization so as to prescribe the procedure of enquiry and therefore, the contention of the learned Counsel for the Plaintiff is misconceived vis-à-vis the conduct of enquiry. It is further

contended that all pages of the enquiry report were duly signed by the Plaintiff, whereas, nothing has been alleged against the members of the Enquiry Committee, nor the Enquiry is one sided as the Plaintiff has been provided full opportunity to contest the matter. Per learned Counsel it has been established that the Plaintiff had worked beyond the mandate of his job description and had extended undue credit facilities to the dealers, whereas, no serious efforts were made by him to recover the outstanding amount. According to the learned Counsel there could not be any compensation for loss of employment benefits as are being claimed and it is the claim of damages only, which can be sustained, however, only subject to the condition that any favourable order is in existence, whereas, in this matter no such order is on record. Per learned Counsel since it is a Suit filed by the Plaintiff, the burden and onus was on him to prove through positive evidence for seeking the relief, which per learned Counsel the Plaintiff has failed to establish and therefore, no case is made out. In support he has relied upon **2003 PLC (C.S) 759** ***(Rahmat Naseem Malik v. President of Pakistan and others)***

6. I have heard both the learned Counsel and perused the record. My Issue-wise findings are as under:-

ISSUE NO.1.

7. Insofar as this issue is concerned, there is no serious dispute between the parties as after abatement of the plaintiff's appeal undoubtedly the relationship between the Plaintiff and Defendant is to be regulated under the principle of Master and Servant and under this principle though no reinstatement compulsorily can be

asked for but a person aggrieved can always seeks damages for his wrongful dismissal. In the circumstances, I am of the view that the Suit is maintainable, however, subject to the prescribed conditions. The issue is answered accordingly.

ISSUE NO.3.

8. Before proceeding further to answer other Issues I deem it appropriate to decide Issue No.3 first. The facts in this matter are not in dispute inasmuch as the Plaintiff was earlier dismissed on 16.10.1998 and on appeal was reinstated by the Tribunal through Order dated 04.07.2002. Thereafter he was reinstated in service and by following the directions of the Tribunal he was once again issued a Charge Sheet and after enquiry he has been dismissed once again. The precise objection, which has been taken by the Plaintiff, is to the effect that the enquiry was not conducted within three months as directed and therefore the entire proceedings are void. I am afraid this contention is not correct. The Tribunal had though given a period of three months to conduct a fresh enquiry, however, there was no condition attached with such observation that as to whether if enquiry is not completed within three months what would be the fate of the Plaintiff's case. Therefore, this objection cannot be sustained merely for the fact that the enquiry was not completed within three months. Even otherwise, the Plaintiff had thereafter fully participated and has not raised any objection through any independent proceedings except this Suit; therefore, on that score also there is no case to that extent.

Insofar as enquiry proceedings and its procedure is concerned again the Plaintiff has participated in the enquiry and has even signed every page of the enquiry, perusal whereof also reflects that he has answered all such questions and charge was framed against him. Therefore, now at this belated stage no objection can be taken on the procedure and conduct of the enquiry merely for the fact that Plaintiff now wants to have it conducted in certain other manner. The Plaintiff has not been able to place on record any rule or regulations prescribing the mode and manner of the enquiry, therefore even if, the enquiry is in question and answer form; same cannot be objected to, therefore, this objection also cannot be sustained. The Plaintiff was asked a question about the enquiry to which he has replied that ***"It is correct that I have signed on the Enquiry Proceedings conducted by the Enquiry Officer"***. He further says that ***"It is correct that I have received the Enquiry Notice dated 30.07.2002, whereby, the enquiry was to be conducted by the Enquiry Committee on 15.08.2002 at 10:00 a.m. in the PSO House".*** In the circumstances Issue No.3 is answered in affirmative.

ISSUE No.2.

9. Though apparently in the proceedings before the Enquiry Committee there seems to be no procedural irregularity, however, the only precise allegation against the Plaintiff appears to be that while posted at Sangi Depot from the year 1990 to 1995 he, as an Accounts Officer, had extended undue credits to the Dealers and

had failed to effect appropriate recovery measures, hence caused losses to the Company. The Enquiry Committee though confronted the Plaintiff with this allegation and even came to the conclusion that the Plaintiff was liable for such delinquent act, however, the Enquiry Committee in addition to the Plaintiff also held two other officers as responsible. When the entire evidence led by the Plaintiff is examined in juxtaposition to the Defendant's evidence, there are very serious and noticeable issues which this Court is required to consider deeply when the evidence of the Defendant is examined. It transpires that if not the entire, but most of the cross-examination is tilted in favour of the Plaintiff. The Defendant's witness was asked several questions in respect of the allegations against the Plaintiff, his job description, the loss so caused to the Company and so also the action, if any, against the other two delinquent officers, but answer to all these questions, support the Plaintiff's case. It would be noteworthy to go through the cross-examination in this regard, which at various places (Pg:145-147) is as under:-

> ……."It is correct to suggest that the committee has held that the Plaintiff is found responsible for not controlling the unauthorized credit. **It is correct to suggest that the Divisional Manager and Dept. Incharge Sangi alongwith account Incharge & finance department at head office were held jointly responsible. It is correct to suggest that apart from the Plaintiff the other persons named above have not been proceeded against them**. …….The operation department provided the job description of the Plaintiff. The job description of the Plaintiff was provided in the year 1985 by the Operation department. The Plaintiff was the officer in the year 1985. The Operation department determined the job description. The Division manager and the Incharge Depo, the job description of them were not produce by me before the inquiry committee. I have read the job description of the Plaintiff thoroughly. It is correct to suggest that it is not mentioned that he was authorized in the job description for extending the credit to the dealers. **It is correct to suggest that in the job description the responsibility of the account office for recovery of the outstanding amount from the dealers is not mentioned.**

> It is correct to suggest that the Plaintiff have reported the outstanding amount until 1997. It is correct to suggest that the Plaintiff was transferred in the year 1995 from Sangi Depo. The Plaintiff was posted at Sangi in the year 1990. **It is correct to suggest that the outstanding amount from the dealer have been received in the year 1998**. It is correct to suggest that no personal hearing was given to the Plaintiff. The Plaintiff would have been retired from the service in the year 2013. **It is correct to suggest that the claim of the Plaintiff regarding pecuniary benefits and claim of damages not rebutted by me in the Affidavit-in-Evidence**. It is correct to suggest that the sale executive and divisional manager are responsible for the recovery of the outstanding from the dealers subject to the information by the concerned account officer. It is correct to suggest that copy of Tar510 was also sent to the operation department and also the sale statement sent to the Divisional Manager."

Perusal of the aforesaid cross-examination of defendant's witness leaves no doubt in my mind that a very harsh and extreme action has been taken against the Plaintiff, whereby, he has been dismissed from service. It has come on record that in the enquiry there were two other Senior Officers, who were equally held responsible for the alleged act, however, the defendant's witness has categorically stated that no action of whatsoever nature was taken against them. It has also come on record that subsequently when the Plaintiff was transferred from depot, the alleged outstanding amount was recovered in the year 1998. In the circumstances, it would have been appropriate if the Defendants had restrained themselves from taking such a harsh action of dismissal from service, and a minor penalty would have sufficed in the matter. It must also be kept in the mind that the Defendant Organization is though a Corporation, but is admittedly owned and managed by the Government itself. In such circumstances it cannot be ruled out that to some extent, there may be some discrimination by the Hi-ups against their Sub-ordinates, as is a

normal routine and practice in Government owned organizations. It is not a case stricto sensu, where we should apply the rule of Master and Servant, whereas the Defendant Organization is to be governed with some rules or regulations being a Government owned Corporation. In fact the Plaintiff and or similarly placed employees cannot be left at the mercy of one officer, who is empowered to exercise powers ordinarily in service matters and related issues. In the case of ***Sadiq Amin Rahman v Pakistan International Airlines Corporation*** [**2016 PLC (Labour) 335**] a learned Single Judge while explaining the concept of Master and Servant, its origin and the current state of affairs even in United Kingdom from where this concept was initiated, has explicitly dealt with a case of an employee working in a Government owned and managed Organization (PIA) and has been pleased to hold as under;

> The exploration and analysis lead to the finale that even the creator and inventor of this phrase have changed the niceties and minutiae of this colonial tenet and precept and they brought amendments to ventilate the ordeals and miseries of their employees/servants and part with various harsh and punitive provisions. So in my view instead of espousing rigid and inflexible application of this phrase some expansion and development of law is required to redress and recompense the grievance and cause of distress. **The relationship of master and servant cannot be construed in the sagaciousness that the master i.e. the management of a statutory corporation or the corporation and or company under the control of government having no statutory rules of service may exercise the powers at their own aspiration and discretion rather in contravention or infringement of fundamental rights envisioned under the Constitution. The statutory bodies and the corporation under the control of Government are not above the law and Constitution. At the same time the principle of good governance are equally applicable and cannot be ignored. The object of good governance cannot be achieved by exercising discriminatory powers unreasonably or arbitrarily and without application of mind, but such objective can only be achieved by following rules of justness, fairness and openness in consonance with command of constitution enshrined in different Articles of the Constitution including Articles 4 and 25 which is supreme law of this country. By misapplication of phrase master and servant, management feels that the employee cannot raise the voice for his rights even though an oppressive attitude or behavior of management which in my view not a correct exposition of law. Nobody is sacred cow in this country but**

growing tendency demonstrates that master feels as if it is above the law and servants have no right to raise the voice……."

I am fully in agreement with the aforesaid findings of the learned Single Judge as in these types of Organizations there is always a chance that the person at the helm of affairs may single out an unwanted and or unlikeable employee to settle some personal score, who then becomes a fall out of such discriminative attitude and behavior. In this matter the Defendant Organization has not been able to justify such extreme action taken against the Plaintiff on the basis of evidence led by them, whereas, on the face of it, discrimination has been meted out by penalizing the plaintiff only, and others have gone scot free. Even otherwise, in cases of employees who do not have specific statutory protection in respect of their terms and conditions of employment it is not always permissible for employers of Statutory Corporations / Government Owned Organizations / Companies to claim an unfettered discretion or right for dispensing with the service of an employee on such grounds which are otherwise not justified. (See ***Shahid Mehmood v Karachi Electric Supply Corporation***-**1996 CLC 1936**) In view of such discussion Issue No.2 is answered in negative.

ISSUE No.4.

10. Since during pendency of these proceedings the maximum period, for which the Plaintiff could have remained in service, has expired, whereas, in a case where the principle of Master and Servant is applied, no reinstatement ordinarily can be ordered by

the Court and the alternate is compensation or damages, therefore, Issue No.4 is also answered in negative.

ISSUE No.5.

11. After having come to the conclusion that the Plaintiff's termination vide Order dated 10.12.2002 was illegal and unlawful, the Plaintiff definitely needs to be compensated and is entitled for award of damages as presently he cannot be reinstated for having attained the age of superannuation. Even otherwise, in applying the principle of Master or Servant, which for various reasons is still applicable in this case as there being no Statutory Rules of Service in Defendant Company, the only remedy for the plaintiff is damages and Courts are fully competent to award such damages. The Plaintiff appears to have claimed various relief(s) and amount through his prayer in the plaint, i.e. for loss for present and future economic damages, his provident fund, compensation, gratuity, pensionary benefits, all service benefits as would have been available if he was under employment, all with mark up. However, he has not led any confidence inspiring evidence in this regard. Therefore, merely, for the fact that the Defendant has not put any question to the Plaintiff or any such assertion has not been objected to in the affidavit-in-evidence of the Defendant, the same cannot be granted as prayed. It has also not been proved and brought in the evidence by the Plaintiff that during this entire period from the date of his termination till decision of the Suit, he was not employed or was not earning any income.

In an action of this kind the damages are always divided into two categories. First is Special damages, which are to be

specifically pleaded and proved. This is what the plaintiff has claimed as discussed above regarding loss of earning and out of pocket expenses and it is generally capable of exact calculation. Second is general damages which in law is implied on happening of certain event and so also in case of a favorable decision for a party. This may not be specifically pleaded and may or may not be capable of exact proof strictly. It may be observed that insofar as claim and award of general damages is concerned, though it may not have been specifically pleaded and proved, but any shortcoming or deficiency in the plaint or in the evidence will not come in the way of the Court to grant such damages once the plaintiff is entitled for a relief in such matters. It cannot be said that plaintiff must not have sustained injury and suffered any economic loss, on account of his wrongful dismissal from service. In the given facts I am of the view that though the plaintiff has not been able to prove his claim of special damages specifically, but is found to be entitled to claim damages on account of agony, physical stress, loss of reputation as well as social persecution. This cannot be corrected through monetary compensation but at least he is entitled for such compensation, and it cannot be said that since this is not going to restore his position as it should have been, if he had not been dismissed, he is not entitled at all for any compensation in the form of damages. The Hon'ble Supreme Court (by a decision of 2 is to 1) in the case of ***Abdul Majeed Khan v. Tawseen Abdul Haleem and others*** [**2012 PLC (C.S.) 574**], after a thread bare examination of various local and international case law in the additional note of the then Chief Justice (Iftikhar Muhammad

Chaudhry. J.) has been pleased to observe as follows, which is relevant for the present controversy;

> 3. At this stage, it is to be noted that there are two types of damages namely; 'special damages' and 'general damages'. The term 'general damages' refers to the special character, condition or circumstances which accrue from the immediate, direct and approximate result of the wrong complained of. Similarly, the term `special damages' is defined as the actual but not necessarily the result of injury complained of. It follows as a natural and approximate consequence in a particular case, by reason of special circumstances or condition. It is settled that in an action for personal injuries, the general damages are governed by the rule of thumb whereas the special damages are required to be specifically pleaded and proved. In the case of British Transport Commission v. Gourley [(1956) AC 185] it has been held that special damages have to be specially pleaded and proved. This consists of out-of pocket expenses and loss of earnings incurred down to the date of trial, and is generally capable of substantially exact calculation. The general damages are those which the law implies even if not specially pleaded. This includes compensation for pain and suffering and the like, and, if the injuries suffered are such as to lead to continuing or permanent disability, compensation for loss of earning power in the future. The basic principle so far as loss of earnings and out-of-pocket expenses are concerned is that the injured person should be placed in the same financial position, so far as can be done by an award of money, as he would have been had the accident not happened…….

Similar view has been expressed in the case of ***Qazi Dost Muhammad v Malik Dost Muhammad (*****1997 CLC 546*****), Islamic Republic of Pakistan v. Sh. Nawab Din (*****2003 CLC 991*****), Azizullah Sheikh v. Standard Chartered Bank Ltd., (*****2009 SCMR 276*****), Mrs. Alia Tareen v. Amanullah Khan* **(PLD 2009 SC 99).**

The next question which arises is that though the plaintiff's dismissal has been held to be illegal but at the same time he cannot be reinstated, then what is the quantum of damages which in the given facts would suffice. In this regard it may be observed that there appears to be no hard and fast rule for determination of such quantum of damages. A learned Division Bench of this Court in the case of ***National Bank of Pakistan v. Ghulam Muhammad Sagarwala*** (**PLD 1988 Karachi 489**) has been pleased to hold that

in case of wrongful dismissal of an employee on the ground of misconduct, the measure of damages may include an amount to compensate him for the injury caused to him by attributing misconduct. A learned Single Judge of this Court in the case of ***Mehboob Rabbani v. Habib Bank Limited*** [**2006 PLC (C.S.) 272**] while dealing with more or less similar situation was pleased to grant damages to the tune of Rs.5.0Million by observing as follows;

> Since I have held that the dismissal of the plaintiff from service was wrong, he is entitled to recover damages from the defendant. The plaintiff can claim special damages (pecuniary damages) and general damages non-pecuniary damages). However, the plaintiff has only demanded general damages (non-pecuniary damages). In an action of personal injury the damages are always divided into two main parts, First, there is what is referred to as special damage which, has to be specially pleaded and proved. This consists of loss of earning and out of pocket expenses and is generally capable of substantially exact calculation. Secondly there is general damage which in law implies and is not specially pleaded and cannot be capable of exact proof. This includes compensation for pain and suffering. What is claimed in the present case is the general damages which cannot be specifically proved and any shortcoming in the plaint or in the evidence would not come in the way of the Court awarding damages. There is no hard and fast rule to calculate the quantum of compensation, as well as there is also no yardstick to measure the sufferings. The plaintiff has claimed damages on account of huge present and future economic loss and on account of undergoing irreversible phase of perpetual mental agony, physical stress and strain, social persecution, pangs of miseries and no likelihood of getting suitable job. The plaintiff no doubt must have sustained pecuniary loss on account of wrongful dismissal in the shape of earnings but no evidence was led in this regard. The plaint is silent in this regard. The plaintiff has also not led any evidence to prove the huge present and future economic loss. The plaintiff's dismissal from service was wrongful as the same was in violation of principles of natural justice. The plaintiff in the circumstances was entitled to damages for mental agony, physical stress and social persecution. This type of damages fell in the category of general damages for assessment of which no definite method is available. For computing/assessing damages consideration should be given to education, status in life, age and the position enjoyed during employment and his earnings while in employment of a person to whom injury has been caused. The plaintiff underwent harassment of unlawful dismissal during prime time of his life. The plaintiff was an officer of bank posted at New York and has enjoyed good reputation and social status and all of a sudden due to wrongful dismissal he lost everything. It is not believable that the wrongful dismissal has not caused any harm to plaintiff. The plaintiff is entitled to the general

damages. The contention of the defendant that the dismissal was right and the plaintiff is not entitled to any damages is misconceived. Now the question is that what will be the quantum of damages for which the plaintiff is entitled under the circumstances of the case. There is no hard and fast rule for grant of damages and there is also no yardstick to measure the damages caused to a person and then to determine the compensation. This is the crucial point in this case. The amount though assessed must not appear to be punitive in nature or exemplary

Applying the principles of the above case that compensation can be granted where a wrong has been done to a party and the damages flow from that wrong the plaintiff is entitled to a fair compensation to be assessed by the Court. The criteria is that while granting the H compensation the conscience of the Court should be satisfied that the damages awarded would if not completely, satisfactorily compensate the aggrieved party. I therefore, hold that plaintiff is entitled to the damages in the sum of Rs.50,00,000,

The Honorable Supreme Court in the case of ***Sufi Muhammad Ishaque v. Metropolitan Corporation Lahore*** (**PLD 1996 SC 737**) while discussing the award of compensation on account of mental torture and injuries of like nature has been pleased to hold as under;

5. Previously jurists and Judges were reluctant to grant claim for damages for mental shock and torture, but now it is well-settled that a person, who suffers mental torture and nervous shock, is entitled to recover damages. In Hinz v. Berry (1970) 2 QB 40, Lord Denning observed: "It' has been settled that damages can be given for nervous shock caused by the sight of an accident, at any rate to a close relative. Damages are, however, recoverable for nervous shock, or to-put it in medical terms, for any recognizable psychiatric illness caused by -the breach of duty by the defendant". In awarding damages for nervous shock and mental torture, or "psychiatric illness" or "Psychosomatic illness", which are the terms currently used the Court should be vigilant to see that the claim is not fanciful or remote and in fact it fairly or naturally results from the wrongful act, of the defendant. Therefore, in order to claim damages for mental or nervous shock and suffering or psychiatric illness, a party must prove wrongful act done by the defendant and that due to such act he has suffered mental shock and torture, which may, at times also result in physical injuries, but not in all cases.……

8. 'Once it is determined that a person who suffers mental shock and injury is entitled to compensation on the principles stated above, the difficult question arises what should be the amount of damages for such loss caused by wrongful act of a party. There can be no yardstick or definite principle for assessing damages in such cases. The damages are meant to compensate a party who suffers an injury. It may be bodily

> injury loss of reputation, business and also mental shock and suffering. So far nervous shock is concerned, it depends upon the evidence produced to prove the nature, extent- and magnitude of such suffering, but even on that basis usually it becomes difficult to assess a fair compensation and in those circumstances it is the discretion of the Judge who may, on, facts of the case and considering how far the society would deem it to be a fair sum, determines the amount to be awarded to a person who has suffered such a damage. The conscience of the Court should be satisfied that the damages Awarded would, if not completely, satisfactorily compensate the aggrieved party.

Again in the case of ***Gohar Ali and another v. Hoechst Pakistan Limited*** [**2009 PLC (C.S.) 464**] while following the aforesaid case of ***Sufi Muhammad Ishaque (Supra)*** the Hon'ble Supreme Court has been pleased to observe as follows;

> 10. Adverting to the question of compensation it may be observed that the effect of the application of the master and servant rule is that an employee of a corporation in the absence of violation of law or any statutory rule cannot press into service constitutional jurisdiction or civil jurisdiction for seeking relief of reinstatement in service, his remedy for wrongful dismissal is to claim damages. It was held by this Court in Sufi Muhammad Ishaque v. The Metropolitan Corporation, Lahore through Mayor PLD 1996 SC 737 that there can be no yardstick or definite principle for assessing damages in such cases. The damages are meant to compensate a party who suffers an injury. It may be bodily injury loss of reputation, business and also mental shock and suffering. So far nervous shock is concerned, it depends upon the evidence produced to prove the nature, extent and magnitude of such suffering, but even on that basis usually it becomes difficult to assess a fair compensation and in those circumstances it is the discretion of the Judge who may, on facts of the case and considering how far the society would deem it to be a fair sum, determines the amount to be awarded to a person who has suffered such a damage. The conscience of the Court should be satisfied that the damages awarded would, if not completely, satisfactorily compensate the aggrieved party.

Therefore, I am of the view that it would be appropriate and in the interest of justice and equity that Plaintiff is paid compensation by the Defendant Company. Accordingly, after having considered the quantum of salary which the plaintiff was earning, his future economic loss which he suffered due to his wrongful dismissal (including pension prospects, gratuity, medical and other service benefits available to such employees), I am of the view that it would

be fair if plaintiff is paid an amount of Rs 3.0 Million (Rupees Three Million) in lieu thereof as damages / compensation with simple mark-up (note-not on compound basis) at the rate of 6% per anum from the date of decree till its realization. The issue is answered accordingly.

ISSUE No.6.

12. In view of hereinabove discussion, the plaintiff's Suit is decreed in the above terms.

Dated: 15.05.2017

JUDGE

Ayaz