

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

C.P. No.D-180 of 2007.

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For katcha peshi.
2. For hearing of M.A-1371 of 2007.

18.09.2017.

Syed Muhammad Saulat Rizvi, Advocate for petitioner, alongwith the petitioner.

Mr. Kamaluddin Advocate for respondents / University, alongwith Professor Dr. Muhammad Saleem Chandio, Registrar University of Sindh, Jamshoro.

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It is an admitted position that many petitions were filed wherein issue of dismissal from service was challenged, but subsequently in view of 184th Meeting of the Syndicate held on 09.03.2013 other employees (petitioners of earlier petition), whose services were also terminated / dismissed in same manner, were restored in service; however, back benefits were not extended to them by the Syndicate.

2. Counsel for petitioner as well petitioner, who is present in person, also seek disposal of instant petition if his case is also considered by the Syndicate on same analogy.

3. Petitioner was working in Grade-11 in Account office; he was dismissed from service in 2003; thus, he preferred appeal but same was also declined. At this juncture, learned counsel for respondents No.1 to 3 alongwith Professor Dr. Muhammad Saleem Chandio, Registrar University of Sindh, Jamshoro, who is present in Court in other matters, *inter alia*, contends that he has no objection if this petition is also disposed of in same terms with direction that Syndicate may consider the case of the petitioner.

4. In the meeting of Syndicate dated 09.3.2013, the item No.16 and resolution thereof, being relevant to this petition, are referred hereunder:

***“Item No.16. To consider the appeal of M/S Habib Iqbal Brohi, Rehmatullah Shar and Muhammad Ramzan Shoro for restoration of service.*”**

The history of case was submitted before the Syndicate. The case has gone through various litigation for the last 17 years. After discussion the Syndicate resolved as under:-

Resolution No.16. *It was resolved that the appeal of M/S Habib Iqbal Brohi, Rehmatullah Shar and Muhammad Ramzan Shoro for restoration of service be approved from the date of Syndicate i.e. 09.03.2013 without back benefits subject to condition first withdrawal of petition from the honorable court by the applicants. Honourable member Mr. Jhamat Jethanand dissented.”*

5. Accordingly, one petition bearing C.P. No.D-187 of 2007 was disposed of as withdrawn in the above terms and *resolution* was honoured.

6. We have examined the minutes of the referred meeting, which say that other employees were restored in their service; however, back benefits were not allowed to them as well with condition that the said employees would first withdraw the petition from this Court. However, Mr. Jhamat Jethanand, Member of the Syndicate, dissented on the said item. Accordingly, petition filed by that petitioners / employees were withdrawn and they were considered by the Syndicate and now they are serving with the respondents.

7. The case of the *petitioner* is identical hence principle of *equity* demands same *treatment* with the present petitioner *too*. Further, petitioner, being low-paid employee, has remained out of service since 2003; having four kids at the time they were school going and that his claim of not being in any job during the stipulated period remained unchallenged. The *rider* regarding withdrawal of petition *first* stood cover by consent of petitioner for disposal of his *petition* on same *analogy* as was *resolved* by the syndicate *itself* in its referred meeting. Registrar Sindh University present contends that next Syndicate meeting is scheduled in September, 2017 which *per* rule of *equity* would bring no other *result* but restoration of petitioner in service, therefore, referring the matter for such *formal* process would serve no purpose.

During *hearing*, to a query, counsel for respondents No.1 to 3 is of the view that when services are restored legally same would be without any service break and all persons would be entitled for onward benefits / promotions including pension.

8. In view of above, the petitioner is restored back in service with immediate effect. Needless to mention that the petitioner would be entitled for all service benefits, including statutory up-gradation, promotion as well pension without any break in the length of his respective service, however he will not claim previous salaries.

9. The petition stands disposed of as withdrawn with listed application, in above terms.

JUDGE

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