

# IN THE HIGH COURT OF SINDH KARACHI

Before :

Mr. Justice Muhammad Iqbal Kalhoro  
Mr. Justice Adnan-ul-Karim Memon

## Constitutional Petition No.D-2856 of 2016

**Shakeel-ur-Rehman**

Petitioner: Through Mr. Faizan Hussain Memon, advocate

Respondents: Through Mr. Yasir Ahmed Shah, AAG

Date of hearing  
& Decision: 20.01.2023.

### ORDER

Through the captioned petition, the petitioner has assailed vires of the Office Order dated 15<sup>th</sup> October 2014, whereby the major penalty of Dismissal from Service in terms of Section 4(1)(b)(iv) of the Government Servant (Efficiency and Discipline) Rules, 1973, has been imposed upon the petitioner by the Chairman Port Qasim Authority (`PQA`) on account of submitting forged Matriculation Certificate to obtain his job as Plumber in PQA, *inter-alia*, on the ground that no regular inquiry was conducted as he has been condemned unheard on the purported charges; that he did not submit his SSC Part-II Examination Certificate as the same was not required for the position of Plumber.

2. The relevant facts of the case are that the petitioner was appointed as Plumber in the respondent PQA on 3.11.2009 on daily wages and his services were regularized vide office order dated 15.12.2009, for which he submitted duty joining report on 19.12.2009 and in pursuance of office order dated 22.12.2009, he was directed to continue the work under Civil Maintenance Department of PQA. Per petitioner, in October 2014 he was on leave due to the ailment of his mother as she was seriously ill and the same fact about her ailment had already been informed to the concerned officials of the Departments. However, in his utter shock and dismay, he came to know through some colleagues that his services had been terminated vide impugned Office Order No. PQA/HRM/775/09 dated 15-Oct-2014 imposed a major penalty of Dismissal from Service.

3. Mr. Faizan Hussain Memon, learned counsel for the petitioner, has submitted that Petitioner neither did Matriculation nor submitted any such documents before the Respondent No. 2, as he was appointed as Plumber in BPS-6 for which the educational requirement was middle and accordingly the Petitioner submitted his School Leaving Certificate reflecting Eight Class passed. He relied upon the photocopy of the School Leaving Certificate of M. H. Gazdar, Government Boys Secondary School, Karachi, and submitted that a Show Cause Notice dated 03-Oct-2014 was issued by Respondent No. 3 and the same was forwarded to the Director (M & E) Department of Respondent No. 2 where the Petitioner was posted, vide Letter No. PQA/HRM/775/09, dated 14-Oct-2014 through Respondent No. 4. He emphasized that the said Show Cause Notice was forwarded through letter No. PQA/HRM/775/09, dated 14-Oct-2014 and returned to the Respondent No. 4 by the M & E Department as the Petitioner was on leave and the very next day, i.e. on 15-Oct-2014 the impugned Office Order was passed by the Respondent No. 3 without completing codal formalities, due process of law and in violation of cardinal principles of natural justice. Learned counsel further argued that Petitioner never submitted any fake matriculation certificate. He added that the Petitioner vide his letter dated 29-Dec-2014 made a representation/appeal to Respondent No. 3 wherein he categorically and specifically denied the submission of any fake matriculation certificate and made the request for his reinstatement in service. He next argued that the impugned Office Order No. PQA/HRM/775/09, dated 15- Oct-2014 for dismissal from service was passed by the Respondents revolved around a false allegation that the Petitioner had allegedly submitted a fake Matriculation Certificate, which factum needs to probe through a regular mode of inquiry, therefore, the impugned Office Order No. PQA/HRM/775/09, dated 15-Oct-2014 passed by the Respondents is liable to be reversed and prayed for his reinstatement in service.

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

5. Present writ petition has been filed by the petitioner challenging the dismissal Order No. PQA/HRM/775/09, dated 15- Oct-2014 and seeking his reinstatement in service along with back benefits.

6. A perusal of the show cause notice dated 3.10.2014 reveals that Scrutiny Committee was entrusted with the task of examining the legality and vies of appointment made in PQA for last 05 years in terms of order dated 19.12.2013 passed in CP No.04/2013 by the Hon'ble Supreme Court of Pakistan, including the case of petitioner was also inquired by the Scrutiny Committee, which was later on found the petitioner producing a fake educational certificate, and the Petitioner was found guilty in departmental proceedings, and the punishment of dismissal from service was imposed upon the petitioner on the ground that the Petitioner had produced a fake educational certificate. The relevant portion of the office order dated 15- Oct-2014 is reproduced herein below:-

“ORDER

WHEREAS, in pursuance to the order dated 19.12.2013 passed in C.P. No.04/2013 by the Supreme Court of Pakistan, Islamabad, and as a result of scrutiny of your appointment, you were issued Show Cause Notice dated 03.10.2014 for submitting fake / forged Certificate of Matriculation (SSC) from Board of Secondary Education, Karachi for securing initial appointment as Plumber (BS-06) in Port Qasim Authority, based upon facts and grounds stated therein.

2. WHEREAS, you have failed/omitted to reply to the aforesaid Show Cause Notice issued to you, whereby the charge against you therein stand affirmed.

3. WHEREAS, the Competent Authority, after considering the above mentioned facts of the case and reasons/grounds thereof, is satisfied that there is no need of holding an inquiry in the case, in terms of Section 5(iii) of the aforesaid Rules, 1973.

4. NOW THEREFORE, having considered the above, the Authority in exercise of power vested in him has imposed the major penalty of "Dismissal from Service" upon you, with immediate effect, in terms of Section 4(1)(b)(iv) of the Government Servant (Efficiency & Discipline) Rules, 1973.”

7. Prima facie, record shows that reasonable opportunities were extended to the delinquent to defend himself effectively at every stage of the disciplinary proceedings in terms of the ratio of the order dated 19.12.2013 passed by the Hon'ble Supreme Court of Pakistan to meet the principle of natural justice. However, petitioner failed to substantiate his point of view and his plea was rejected in terms of issuance of show cause notice and subsequent order of dismissal from service.

8. Keeping in view of the above facts and after examination of all the pros and cons of the case, we have come to the conclusion that charges leveled against the petitioner have been substantiated by the report of Board of Secondary Education Karachi vide letter dated 17.09.2014 which cannot be threshed out under Article 199 of the Constitution and this could be the reason that the petitioner found guilty of misconduct in his capacity as an employee of the PQA

and he deserves for stringent punishment for his misconduct based on the report of BSEK as discussed supra.

9. Consequently, the present petition is dismissed along with the pending application(s) being bereft of merit.

**JUDGE**

**JUDGE**

Nadir\*