

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

C.P. No. D — 435 of 2022

DATE	ORDER WITH SIGNATURE OF JUDGE
-------------	--------------------------------------

31.08.2023.

FOR ORDERS ON OFFICE OBJECTION.
FOR HEARING OF MAIN CASE.

Mr. Rehmatullah Hisbani Advocate for the petitioner.
Mr. Muhammad Jamil Ahmed Advocate for respondent/ZTBL.
Mr. Rafique Ahmed Dahri Assistant A.G.

An earlier petition with the almost same prayer was filed that since major penalty was imposed, therefore, dispensation of inquiry was unlawful and that he was not heard. A Bench of this Court in C.P. No.D-591 of 2020 then, on 1st December 2021, passed an order disposing of the petition with the direction that the appellate authority of the respondent would decide the appeal of the petitioner within fifteen days [15] from the date of order after providing the opportunity of hearing. The petitioner was then left to avail appropriate remedy against the order likely to be passed in the aforesaid appeal as observed by the Bench. The Appellate Authority then by virtue of an Office Memorandum, (challenged in this petition) passed an order in the following terms:

“No.DPD/IU-III/SKR-5(106)2022/151

Dated 25.01.2022.

OFFICE MEMORANDUM

In terms of Order dated 01.12.2021 passed by the Honourable High Court of Sindh, Circuit Court Hyderabad in C.P. No.D-591/2021, I have carefully considered the Appeal dated 23.04.2020, preferred by Mr. Ashiq Hussain, PP No.087028, Ex-AVP, ZTBL, Zonal Office, Shaheed Benazirabad, the then Manager, ZTBL, Mehrabpur Branch, Shaheed Benazirabad Zone against the **“major penalty of compulsory retirement from Bank’s service”** imposed upon him vide OM dated 16.04.2020. I have also heard the submissions made by him during personal hearing on 18.01.2022, gone through the record available in the case file and concluded that charge of shortage of cash have already been proved against him by Authorized Officer in case of Direct Show Cause Notice dated 30.01.2020, thus the penalty imposed upon him by the Authority is well commensurate with the charge proved against him. During personal hearing he also failed to provide any plausible evidence in his defence.

I, therefore, in exercise of powers vested in me under ZTBL Officers Service E&D Regulations 1975 read with the Circular No.HRD/51/2017 dated 12.12.2017 have decided to decline his

appeal and upheld the “**major penalty of compulsory retirement from Bank’s service**” imposed upon him vide OM dated 16.04.2020.”

Aggrieved of it, the petitioner yet again filed this petition with an additional prayer clause that the Office Memorandum dated 25 January 2022, was not lawful and that the dispensation of process of taking evidence i.e. inquiry should not have been followed/done and that he was victimized. This point was pleaded earlier and no directions in this context were given by earlier Bench and all pleading deemed to have been considered. The petition was considered only to the extent that his appeal be disposed of after providing him an opportunity.

The Office Memorandum dated 25 January 2022 impugned in this petition disclosed that the “memo of the contents of the petition” was considered and in addition to it the “petitioner’s submissions were heard” and a personal hearing was given on 18.01.2022.

Today, the counsel for the respondent has also filed a statement in pursuance of an order dated 16 August 2023, which not only supplement the contents of the Office Memorandum impugned but also provides a letter issued to the petitioner for hearing. The second annexure to this statement shows that a notice of his appearance was issued on 18 January 2022. Not only that the order suggests his appearance but the requirement of law is that opportunity of defence be given. The rights were duly taken care of in the sense that not only the contents of the appeal were seen (which is sufficient) but also that the petitioner was personally heard and inquiry in this regard cannot be undertaken.

Since in substance the compliance has been made the appeal of the petitioners in terms of the grounds raised therein were disposed of. No interference, as such, is required. The petition is dismissed.

JUDGE

JUDGE