

**IN THE HIGH COURT OF SINDH AT KARACHI**

**C. P. No. D-6898 of 2019**

Date	Order with Signature of Judge
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For hearing of main case.

**10.03.2025**

Syed Anayat Hussain Shah, Advocate for the Petitioner.  
Mr. Faisal Mehmood Ghani, Advocate for Respondent No.1.  
Mr. Abdul Jalil Zubedi, A.A.G. Sindh.

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The Petitioner has challenged the concurrent findings of the Fora below in which the Grievance Application of Petitioner was dismissed by holding that he does not fall within the definition of Workman as he was working as Branch Manager of Respondent-Bank at Jacobabad.

Learned Counsel for the Petitioner states that both the Fora have misread the material brought on record; that it was not appreciated that Petitioner does not have any authority to hire or fire the employees of Bank, rather his duties substantially clerical in nature; that he was performing his work more diligently and was dismissed from service on ill-motives. Counsel has cited the Decision reported in 2015 SCMR 434 (National Bank of Pakistan vs. Anwar Shah & others) with an emphasis that the facts are applicable to the facts of the present Petition.

It was opposed by Counsel for Respondent-Bank who reiterated his stance that Petitioner was working in Officer Grade-I as Branch Manager and the entire affairs of the Branch were being looked after by him and hence he had ample discretion while discharging his duties and cannot be termed as workman; Petitioner was not dismissed from service in connection with some industrial dispute [as envisaged in the Labour Laws], but, for committing misconduct; besides his appeal to the Appellate Tribunal was time barred so also observed in the impugned Order of the Respondent NIRC. Counsel cited 2019 SCMR 946 (HBL vs. Gulzar Khan), 2024 SCMR 360 (MCB vs. Rizwan Ali Khan) and 2024 SCMR 71 (Amanullah vs. UBL).

Arguments heard and record perused.

Undisputedly, the Petitioner was dismissed from service on the allegations that he purportedly allowed unauthorized running finance to the Customer and handed back the bank guarantees to other customers in violation of the Terms and Conditions of their Sanctioned Advice. Thereafter inquiry was conducted and he was dismissed from service on 20.10.2005. He served the Grievance Notice which was un-replied followed by initiation of litigation through his Grievance Application.

The very fact that the Petitioner was working as Branch Manager and granted the unauthorized running finance and released the bank guarantees, shows the degree of discretion and authority he was enjoying as Branch Manager, in making such decisions; besides looking after and supervising other affairs of the Branch as per rules and procedure of Respondent-Establishment.

The Explanation Letter to the Petitioner, its Reply, Notice to appear in the Inquiry and Dismissal Letter are available in the Record [Pages 47 to 57]. The Petitioner has explained his position with regard to the above allegations of mis-conduct, which, on perusal, concludes that his position is that of managerial nature, involving cognitive capabilities in making commercial decisions, inter alia, with regard to finance facility given to customers of the Respondent Bank.

Whether the dismissal of Petitioner is lawful or not, the same aspect is not decided in this Petition, in view of the following Paragraphs, so also it could prejudice the other remedy [if available] and which the Petitioner may want to avail.

The Judgment relied upon by the Petitioner is distinguishable and does not apply to the facts of present Petition, because in the cited Judgment of National Bank of Pakistan, the Order of NIRC was upheld in which names of those employees were deleted from the Election Process who were working in the Officers Grade I to III. The present Petitioner is admittedly was in the Officer Grade-I, working as Branch Manager, thus, is not a 'Workman'. Conversely, the Case Law cited by the Respondent Counsel is relevant, in particular, HBL Case [supra]. The crux of the Case Law relied upon by the Respondent is that the authority to hire and fire is not the only criteria to assess the status of a person as workman or non-workman, but, *inter alia*, it is to be considered that whether a person who has invoked the jurisdiction under the Labour Law(s), was doing actually manual and clerical work involving physical exertion as opposed to mental or intellectual exertion.

In view of the above, no irregularity is committed by the learned Fora below and they exercised the Jurisdiction properly, hence, no interference is warranted in this writ jurisdiction. Consequently, this Petition is dismissed. However, we may observe that the Petitioner is at liberty to avail remedy in accordance with law.

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