

# IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

*Constitution Petition No. D- 288 of 2025*  
(Zuhaib Ahmed vs. Province of Sindh & others)

## **PRESENT:**

*Mr. JUSTICE ZULIFQAR ALI SANGI,*  
*Mr. JUSTICE NISAR AHMED BHANBHRO,*

Petitioner: Through M/s Ali Asadullah Bullo, Deedar Ali M. Chohan,  
Advocates  
Respondents: Through Mr. Asfandyar Khan Kharal, AAG.  
Date of Hearing: 26.03.2025  
Date of Order: 26.03.2025

## **ORDER**

**Nisar Ahmed Bhnahbro J.** Through instant Petition, the Petitioner has claimed following relief(s):

- i. Declare the impugned enquiry proceedings conducted by Respondents Nos.5 and 6 as illegal, conducted in violation of dicta laid down by Honorable Supreme Court of Pakistan and set aside the same.
- ii. Direct the Respondent No.3 to conduct de novo impartial enquiry and allow the petitioner to participate as per Sindh Police (Efficiency and Discipline) Rules 1988 and dicta laid down by Honorable Supreme Court of Pakistan.
- iii. To restrain Respondent No.3 from taking any coercive action against the Petitioner and should conduct himself strictly in accordance with law.

2. The facts of the Petitioner's case are that he was appointed as Assistant Sub-Inspector (ASI) in Sindh Police in year 2020 on the recommendation of Sindh Public Service Commission. He served as office Superintendent in the office of Senior Superintendent of Police (SSP) Khairpur he was transferred and posted in SSP Office Ghotki vide office order dated 01.10.2025 issued by Deputy Inspector General Police (DIGP) Sukkur Range/Respondent No 3. On 01.01.2025 Respondent No 3 issued show cause notice to the Petitioner under a statement of allegations. The petitioner replied to the show cause notice and gave all proofs and justification of his innocence. After submission of reply to show cause notice, Respondent No.3 constituted an enquiry

committee by nominating DSP Waseem Mumtaz Kalwar/ Respondent No.5 as Inquiry Officer. The Respondent No 5 conducted inquiry, forwarded recommendation to Respondent No 3 for imposing minor punishment. The Respondent No 3 did not agree with the findings of inquiry and ordered for Re inquiry and appointed Respondent No 6 as Inquiry Officer. The Respondent No 6 conducted inquiry and recommended to impose major punishment. The Respondent No 3 issued final show cause notice dated 18.02.2025 to the Petitioner, hence the present petition seeking de novo inquiry through impartial officer.

3. The Respondent No 3 (DIGP Sukkur) in his reply stated that there were general complaints of bribe against the Petitioner during his posting as OASI in SSP Office Khairpur, therefore the disciplinary proceedings under Sindh Police (Efficiency and Discipline) Rules 1988 (**the Said Rules**) were initiated against him, he was given show cause notice dated 01.01.2025 on charges of misuse of authority, blackmailing and bribe from police officers in transfer matters. DSP Waseem Mumtaz Kalwar/Respondent No 5 was appointed as inquiry officer who conducted enquiry, recommended to impose minor punishment keeping in view his general conduct and attitude to the constabulary. The Respondent No 3 did not agree with the inquiry, ordered Re – Inquiry and appointed DSP Ghulam Qadir Soomro / Respondent No 6 as Inquiry Officer to conduct inquiry afresh vide office order dated 13.01.2015. Respondent No 6 conducted inquiry, furnished inquiry report dated 11.02.2025 holding Petitioner guilty of misconduct, recommended for imposing Major Punishment. The Respondent No 3 pursuant to recommendations of Inquiry Officer issued final show cause notice to the Petitioner, to which he replied. Per Respondent No 3 **the said Rules** provide a remedy of appeal but instead the Petitioner opted to invoke the writ jurisdiction of this Court to hamper the inquiry proceedings, he prayed for dismissal of Petition.

4. The Respondent No 6 in his reply stated that he was appointed as Inquiry Officer by Respondent No 3 to conduct inquiry into the allegations of misconduct against Petitioner. He conducted open and secret inquiry and concluded that Petitioner was guilty of misconduct; he recommended imposing major punishment, he forwarded such inquiry report to the authority for further action.

5. Mr. Ali Asadullah Bullo Learned Counsel for the Petitioner contended that the Petitioner had an unblemished service record; he discharged duties diligently and honestly. The Respondent No 3 was pre-determined to impose major punishment upon Petitioner on the basis of an inquiry conducted behind his back. The Petitioner was not

called to join inquiry proceedings. He contended that Respondent No 3 was not competent to order for re-enquiry. There was no rational for conducting Re-Inquiry when the Inquiry Officer of the First Inquiry recommended imposing minor punishment. He contended that the Inquiry Officer was working under the influence of Respondent No 3 who was biased against him. He prayed for quashing of the inquiry proceedings and constituting an impartial Inquiry Officer to conduct probe into allegations against the Petitioner. He relied upon the case of Federation of Pakistan through **Chairman Federal Board of Revenue FBR House Islamabad and others Versus Zahid Malik** reported in **2023 SCMR 603**.

6. Mr. Asfandyar Kharal Learned AAG contended that on serious charges of misconduct Respondent No 3 initiated disciplinary proceedings against Petitioner by issuing a show cause notice containing statement of allegations. The reply to show cause notice was submitted by Petitioner but Authority did not find it sufficient and appointed an inquiry officer to probe into allegations. The inquiry officer conducted inquiry and found petitioner guilty of misconduct, recommended imposing of minor punishment. The findings of inquiry officer were not agreed upon by the Competent Authority, therefore Re - inquiry was ordered by appointing Respondent No 6 as inquiry officer. The inquiry officer conducted inquiry afresh, found petitioner guilty of misconduct, recommended for awarding major punishment. He contended that the Petitioner participated in the inquiry proceedings, his statement was recorded, during inquiry he did not allege biasness against Inquiry Officer. He contended that the Respondent No 3 acted in accordance with law, the inquiry is under process. Petitioner is a civil servant, proceedings initiated against him involved the terms and conditions of service, not amenable to writ jurisdiction of this Court. Petitioner intends to hamper due process of law, he prayed for dismissal of Petition. He relied upon cases of **Jamsher Ali Sial and 82 others Versus Province of Sindh and others** reported as **2024 PLC (CS) 690**, **Dr Sayyid A.S Pirzada versus The Chief Secretary, Services and Administration Department and others** reported as **2023 SCMR 1087** and **Khalilullah Kakar and others versus Provincial Police Officer Balochistan and others** reported as **2021 SCMR 1168**.

7. We have heard Learned Counsel for the Parties and examined material available on record.

8. The case of the Petitioner is that the inquiry against him was biased and motivated, he was condemned unheard by the Inquiry Officer. The Respondent No 3 through colorful exercise of powers intends to impose major punishment against him

though the First Inquiry Officer recommended for a minor punishment but said inquiry report was not agreed upon by the Respondent No 3 and Re-inquiry was ordered.

9. The scanning of the material available on record revealed that disciplinary proceedings were initiated against Petitioner by the Respondent No 3 through a show cause notice dated 01.01.2025 to explain as to why a punishment provided under Rule 4 of the said Rules should not be imposed upon him under the statement of allegations that during his posting as OASI in SSP Office Khairpur he was involved in illegal activities by misusing official powers / position and there were general complaints of blackmailing and corruption, illegal gratification and bribe from police officers in transfer and posting matters, which constituted misconduct. The Petitioner filed reply to the show cause notice denying statement of allegations. The Respondent No 3 appointed DSP Waseem Mumtaz Kalwar / Respondent No 5 as Inquiry Officer, who conducted inquiry and submitted findings of inquiry (available at page No 33 of the petition) wherein he concluded that there were two complaints of corruption against the Petitioner received through Whatsapp numbers but both the complainers did not come forward to record their statement. The inquiry officer concluded that there were complaints of general in nature against Petitioner, he was found guilty of misconduct, therefore, a recommendation for award of Minor Punishment was forwarded to the Authority. It is pertinent to mention that contrary to the claim of Petitioner that he was not allowed to join inquiry proceedings, his statement finds mention on page number 2 of the inquiry report, meaning thereby that he was part of the inquiry proceedings.

10. It appears that Respondent No 3 did not agree with the findings of Inquiry Officer, therefore, vide office order dated 23.01.2025 he ordered for Re-Inquiry by appointing Respondent No 6 as new Inquiry Officer. The Inquiry Officer conducted inquiry, called for the conduct reports of Petitioner from concerned SSP office and recorded statement of complainant. The Inquiry Officer concluded that Petitioner was guilty of misconduct; he was a probationer until 20.03.2025 but succeeded in getting postings of his choice at different places by influencing officers, the SSP Office also issued misconduct report against petitioner. Inquiry Officer forwarded its recommendations to the Authority through inquiry report dated 11.02.2025 proposing for imposition of Major Punishment. Contrary to the claim of Petitioner that he was condemned unheard, the Inquiry Report of Re-Inquiry reflected that Petitioner was part of inquiry proceedings, his statement was recorded. Based upon the recommendations of Inquiry Officer Respondent No 3 issued a final show cause notice dated 18.02.2025 to the Petitioner to explain as to why any of the Major Punishment provided under Rule 4 of **the**

**said Rules** should not be imposed upon him. The Petitioner replied to the show cause notice, denied allegations leveled against him.

11. The Petitioner challenged inquiry proceedings after issuance of Final Show Cause Notice alleging the grounds of personal bias and pre determination to impose a major punishment on the part of Respondent No 3. The Efficiency and Discipline Rules empower the Authority to initiate disciplinary proceedings against a police official under Rule 6 by way of Summary, General or Special Proceedings. In case of the General Proceedings the Authority may appoint an Inquiry Officer to conduct inquiry into the allegations. The Respondent No 3 ordered for an inquiry through Respondent No 5, the inquiry officer proposed a Minor Punishment but Respondent No 3 did not agree with the findings of Inquiry Officer ordered for Re - Inquiry, the said Rules did not debar Authority to order for conduct of successive inquiries, therefore order for conduct of Re - Inquiry is within the premise of law and rules. Successive Inquiries are permissible under the law to unveil reality. The Petitioner failed to demonstrate that Respondent No 3 acted beyond his powers or there existed any element of personal grudge to hold that Respondent No 3 was motivated against him and inquiry proceedings were a colorful exercise of powers.

12. The Perusal of record manifested that during inquiry proceedings opportunity defense was provided to the Petitioner. No complaint of bias, unfairness, partiality or motivation has been agitated or pointed out against the Inquiry Officer, suggestive of any element of victimization. Article 10 – A of the Constitution guarantees the right to a fair trial as fundamental right, an alienable right of the citizen and cannot be denied even during disciplinary proceedings against an official. The Petitioner alleged that he was denied the right of Fair Trial by denying him the chance of fair defense by not allowing him to join inquiry proceedings. Such stance of the Petitioner appears to be a mere allegation as he himself submitted documents related to the inquiry, which reflected, that Petitioner was provided all the details of inquiry and statement of charges against him to which he replied. The statement of Petitioner also finds a particular mention in the inquiry report, which he did not disown. It is onerous duty of the Inquiry Officer to explore every avenue of the case so that the inquiry could be conducted in a free, fair and transparent manner, in case he records the statement of any person concerning inquiry, it must be recorded in presence of accused official facing disciplinary proceedings with a right of cross examination, failure to adopt such a procedure would bulldoze the principles of natural justice and cannot be approved. The Honorable Supreme Court in

the case of **Zahid Malik** Supra has depreciated such practice, holding the same to be in violation of principles of natural justice and nullity in the eyes of law.

13. The Petitioner if dissatisfied with the inquiry proceedings had an option to move complaints before the Higher Forum by way of filing Revision Application under Rule 11 of the said Rules seeking change of Inquiry Officer or even the change of Authority to decide the fate of inquiry, but he did not. The Petitioner has not supported his stance of biasness, personal grudge and partiality of Respondent No 3 by moving any complaint against him. The Reply to the final show cause notice even did not allege any mala fides or biasness, on the contrary the Petitioner has prayed for mercy in the reply. The Police Department is saddled with sensitive responsibility of providing security to the citizens and maintaining law and order, to perform duties within the bounds of law, the self-accountability, discipline and good governance is required to be maintained within various ranks of the offices. This goal can be achieved by effective implementation of disciplinary provisions. The matters of departmental proceedings should be dealt in a free, fair and transparent manner, leaving a little room for the aggrieved officer to approach the courts of law. Only the matters requiring interpretation of law or rules may be agitated before the Courts. The appointment, disciplinary proceeding, transfer and postings are internal affairs of the department and institutional autonomy demands that the Courts of Law sparingly interfere in such matters and particularly when it surfaces that the Authority acted contrary to law which resulted into infringement of fundamental rights. If the departmental proceedings are put on a halt at any stage it will render the statutory provisions redundant, particularly when such proceedings were initiated under a statutory backing.

14. We avoid render deliberations upon the merits of the inquiry however We expect that such proceedings would be within the parameters and four corners of law and rules and the Respondent No 3 in all fairness of the things would decide the fate of the final show cause notice in accordance with law and without being prejudiced by the conduct of Petitioner, as certain allegations of mala fide and pre determination of fate are leveled by the Petitioner against him in the Petition.

15. The Petitioner is a Civil Servant working in Police Department his services are governed under the said Rules which provide a complete framework of right to appeal and revision. In any case if the Petitioner was not satisfied with the conduct of Inquiry Officer or Respondent No 3 he should have adopted due course of law available to him.

This Court under its writ jurisdiction cannot interfere into the disciplinary proceedings initiated by the Department which might amount to throttle due process of law.

16. Sequel to the above discussion We have arrived at a conclusion that the Petitioner has failed to make out a case for indulgence to exercise writ jurisdiction of this Court under article 199 of the Constitution, this petition therefore fails and dismissed accordingly with listed applications if any.

JUDGE

JUDGE

Irfan/PA