

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI

Constitutional Petition No. D – 4905 of 2023
(Muneer Ahmed versus National Accountability Bureau & others)

DATE	ORDER WITH SIGNATURE OF JUDGES
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Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Muhammad Jaffer Raza

Date of hearing & orders: 03.9.2026

Malik Altaf Hussain, Advocate for the Petitioner in CP No.D-4905/2023
a/w Mr. Muhammad Arsalan Hussain, Advocate.
M/s. Syed Khurram Kamal and Saeeda Khurshid, Special Prosecutor,
NAB.
Ms. Wajeeha Mehdi, Assistant Attorney General.

ORDER

Adnan-ul-Karim Memon, J. Petitioners Muneer Ahmed has filed this Constitutional Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, seeking the following reliefs:

- i. *To hold and declare that the impugned orders dated 22.05.2023, 02.06.2023 and 11.09.2023 are violative of Article 10-A of the Constitution of Pakistan 1973 consequently to set aside the same ;*
- ii. *To direct the Respondents to reinstate the Petitioner with full back benefits;*
- iii. *Pending adjudication of the captioned petition, the operation of the impugned orders may be suspended..*

2. The petitioner, Muneer Ahmed, was serving as Steno Typist (BPS-14) with NAB Regional Office Karachi and had earlier been promoted as Assistant Private Secretary (BPS-16), but was subsequently reverted. He was arrested on 15.10.2021 in connection with NAB Reference No.05 of 2022 concerning allegations of receiving illegal gratification and possessing assets beyond known sources of income. While the petitioner remained in custody, Respondent No.3 initiated departmental disciplinary proceedings against him on 04.11.2021. The petitioner contends that the inquiry, charge-sheet and statement of allegations were defective and that he was coerced into making a statement amounting to a confession. Since he was incarcerated, he claims he was unable to properly defend himself, was denied access to relevant record and legal counsel, and was not afforded a meaningful opportunity to cross-examine witnesses. It is averred that despite these objections, the inquiry officer concluded that the allegations were proved and submitted the inquiry report dated 23.12.2021. A show-cause notice was thereafter issued on 10.02.2022, proposing major penalty. The petitioner submitted an interim reply, reiterating that he was unable to effectively participate in the proceedings due to his custody and requesting further time. He further

alleged that the departmental inquiry substantially relied upon the statement of Aijaz Dawich, whose version was inconsistent with the allegations contained in the NAB Reference. The petitioner was subsequently called for personal hearing on 05.04.2023, where he reiterated that the disciplinary proceedings had been conducted in violation of his rights under Article 10-A of the Constitution, as he had neither been given adequate opportunity to defend himself nor access to the record or legal assistance. It is emphasized that despite the pendency of C.P. No.D-1987/2023, filed by him seeking a fair opportunity of defence, Respondents No.2 and 3 imposed the major penalty of dismissal from service vide orders dated 22.05.2023 and 02.06.2023. The petitioner challenged the said orders through a departmental appeal before Respondent No.1 on 19.06.2023. However, his appeal was dismissed vide order dated 11.09.2023, which was served upon him on 30.10.2023. According to the petitioner, the appellate authority dismissed the appeal mechanically without affording him a personal hearing and only heard the authorized officer.

3. The petitioner's counsel therefore contends that the entire disciplinary proceedings and the impugned orders dated 22.05.2023, 02.06.2023 and 11.09.2023 are illegal, unlawful, mala fide and violative of his constitutional right to fair trial and due process under Article 10-A. He seeks setting aside of the impugned orders, reinstatement with all back benefits. In support of his contentions, he relied upon the case of Shakir Ali v. National Accountability Bureau (2021 PLC (C.S.) 683), order dated 29.8.2025 passed by this Court in CP No. D-2690/2022 (Muhammad Umair versus National Accountability Bureau & others) and order dated 12.5.2022 passed by learned Lahore High Court in WP No.10728/2019 (Frass Hameed versus National Accountability Bureau, etc.).

4. The learned Assistant Attorney General (AAG) assisted by the learned Special Prosecutor for NAB, submitted that the Constitutional Petition is not maintainable under Article 199 of the Constitution, as the petitioner has failed to establish violation of any vested or enforceable right or any legal cause of action against the impugned orders. It was contended that the petitioner approached this Court with unclean hands and that no ground warranting interference in the departmental proceedings had been made out. It was submitted that the petitioner, who was initially appointed as Steno typist in NAB Karachi in 2007 and later promoted as Assistant Private Secretary, was reverted to his original post after failing to successfully complete the probationary period. It is submitted that during his posting at NAB Multan, he was arrested in connection with an investigation concerning Zain-ul-Abideen, APS, NAB Karachi and others. The learned Special Prosecutor also submitted that a departmental inquiry was lawfully initiated against the petitioner under the NAB Employees Terms & Conditions of Service (TCS), 2002. A charge-sheet and statement of allegations

were served upon him, and the Inquiry Committee recorded statements of witnesses as well as the petitioner. The petitioner was given full opportunity to confront and cross-examine the witnesses but did not put any questions to them. Rather, according to the respondents, he admitted receiving illegal gratification/bribe and disclosed acquisition of properties and other valuable assets. It was further submitted that the departmental inquiry established allegations of receiving illegal gratification amounting to Rs.96.1 million, accumulation of assets beyond known sources of income, and pressurizing witnesses. The Inquiry Committee also noted recovery of valuable articles, including a Toyota Axio, Apple iPhone, MacBook, smartwatch and AirPods. The learned Special Prosecutor contended that, after completion of the inquiry, the petitioner was issued a Show Cause Notice and was also afforded an opportunity of personal hearing. His reply was found unsatisfactory, whereafter the Authorized Officer recommended the major penalty of dismissal from service. The competent authority, i.e. DG (HRM), NAB Headquarters, subsequently imposed the penalty of dismissal from service under the NAB TCS, 2002. It was argued that the departmental proceedings were independent of the criminal proceedings and were conducted in accordance with law, with adequate opportunities afforded to the petitioner to defend himself. The petitioner had failed to point out any procedural or legal defect in the inquiry. His allegations of coercion and pressure were termed an afterthought, particularly in view of his written statement and the opportunity afforded to him during the inquiry. The learned Special Prosecutor further submitted that the petitioner's departmental appeal was duly considered and dismissed by the Chairman NAB, being the Appellate Authority under Rule 13.02 of the NAB TCS, 2002. It was contended that no separate opportunity of personal hearing before the Appellate Authority was required under Chapter 13 of the TCS, 2002. Lastly, it was argued that the petitioner was essentially seeking re-appraisal of the evidence and findings of the departmental inquiry, which was not warranted in constitutional jurisdiction. Since the inquiry, disciplinary action and departmental appeal were undertaken in accordance with law and the petitioner had been afforded adequate opportunity of defence, no case for interference under Article 199 of the Constitution was made out. The learned Special Prosecutor, therefore, prayed that the petition be dismissed as being devoid of merit. The learned AAG is of the same view.

5. We have heard the learned counsel for the petitioner, the learned AAG and Special Prosecutor, NAB, and have examined the record with their assistance.

6. The principal question requiring our determination is whether the impugned orders dated 22.05.2023, 02.06.2023 and 11.09.2023 suffer from any illegality, jurisdictional defect, violation of the principles of natural justice or denial of the constitutional guarantee of fair trial and due process so as to warrant

interference by this Court in its constitutional jurisdiction under Article 199 of the Constitution.

7. At the outset, it is settled that disciplinary proceedings against an employee are distinct and independent from criminal proceedings arising out of the same allegations. The mere pendency of, or even an eventual outcome in, criminal proceedings does not by itself invalidate departmental action, as the two proceedings operate in different fields and are governed by different standards of proof. In departmental proceedings, the question is whether the charge of misconduct stands established on the basis of the material available before the competent authority, whereas a criminal charge requires proof beyond reasonable doubt. This High Court, while exercising constitutional jurisdiction under Article 199 of the Constitution, is therefore not expected to substitute its own assessment of departmental evidence for that of the competent disciplinary authority unless the findings are shown to be perverse, based on no evidence, actuated by mala fide, or arrived at in violation of the prescribed procedure or principles of natural justice. In our view departmental and criminal proceedings are independent and that constitutional jurisdiction cannot ordinarily be converted into an appellate forum for re-appraisal of departmental evidence.

8. The principal grievance of the petitioner is that, owing to his incarceration, he was unable to effectively defend himself and was deprived of access to relevant record, legal assistance and an effective opportunity of cross-examination. Article 10-A undoubtedly guarantees fair trial and due process, and its principles are applicable to disciplinary proceedings to the extent that the employee must be afforded a fair and meaningful opportunity to meet the allegations. However, the protection of Article 10-A does not mean that every procedural complaint, without demonstrating actual prejudice or denial of a substantive right of defence, would render the entire departmental proceedings void. The essential requirement is fairness of procedure and a reasonable opportunity to defend. The NAB itself presently describes its disciplinary inquiry framework as including a right of defence, cross-examination, recording of statements and an opportunity of personal hearing.

9. In the present case, the record, as narrated by the respondents, shows that the disciplinary proceedings were initiated under the applicable NAB Employees Terms & Conditions of Service, 2002; a charge-sheet and statement of allegations were served upon the petitioner; the Inquiry Committee recorded statements of witnesses and also recorded the petitioner's version; and the petitioner was afforded an opportunity to confront and cross-examine the witnesses. The respondents specifically assert that, despite such opportunity, the petitioner did not put questions to the witnesses. Thus, the mere assertion that he was unable to cross-examine witnesses is not sufficient to establish violation of Article 10-A

when the record indicates that an opportunity was provided but was not effectively utilized.

10. Equally, the petitioner's allegation that his statement was obtained under coercion or pressure cannot, in constitutional jurisdiction, be accepted merely on the basis of a subsequent allegation, particularly when the respondents rely upon the petitioner's written statement and other material collected during the inquiry. Whether such statement was voluntary, what evidentiary value it carries and whether it was corroborated by other material are essentially matters falling within the domain of the inquiry authority. However, the petitioner failed to demonstrate that his purported confession was forcibly extracted and that the finding of guilt rests exclusively upon such coerced statement, this Court is not in a position to undertake a fresh appreciation of the evidentiary material in constitutional jurisdiction.

11. The petitioner's contention regarding alleged discrepancies between the statement of Aijaz Dawich and the allegations contained in the NAB Reference also does not, by itself, establish any jurisdictional or procedural illegality. The departmental authority was entitled to consider the material placed before it for determining whether misconduct had been established in the service context. The fact that a particular witness may have given a version which, according to the petitioner, differs from the criminal reference does not automatically nullify the departmental proceedings. The petitioner has essentially invited this Court to compare, weigh and re-assess the evidentiary material and arrive at a conclusion different from that of the Inquiry Committee. Such exercise falls outside the normal scope of judicial review under Article 199 of the Constitution.

12. We are also unable to accept the contention that the departmental proceedings were rendered incompetent merely because criminal proceedings/reference were pending against the petitioner. The alleged receipt of illegal gratification, accumulation of assets beyond known sources of income and other acts attributed to the petitioner constitute matters which may independently amount to purported misconduct under the applicable service framework and this Court cannot undertake such exercise under Article 199 of the Constitution. The departmental authority was, therefore, competent to examine the petitioner's conduct from the standpoint of service discipline notwithstanding the pendency of criminal proceedings. The distinction between the two jurisdictions is well recognized in law.

13. As regards the contention that the inquiry report was defective, it is significant that the petitioner was subsequently issued a show-cause notice proposing the major penalty of dismissal. He submitted his reply and was thereafter afforded a personal hearing on 05.04.2023. The competent authority

considered the material and ultimately imposed the penalty of dismissal. Thus, the record prima facie demonstrates that the petitioner was not condemned unheard. The requirement of natural justice is not satisfied by providing a mere formal opportunity; nevertheless, once the record prima facie establishes that the charges were communicated, the petitioner was permitted to respond, evidence was recorded, opportunity to defend was afforded, a show-cause notice was issued and personal hearing was provided, the burden lies upon the petitioner to identify a specific procedural violation causing substantial prejudice. No such convincing prejudice has been demonstrated before us to take contrary view in constitutional jurisdiction.

14. The petitioner's further grievance that his departmental appeal was dismissed without granting him a separate personal hearing also does not furnish sufficient ground for interference. The respondents have pointed out that the appellate authority considered the departmental appeal in accordance with Rule 13.02 of the NAB TCS, 2002. Unless the governing service rules expressly make a personal hearing before the appellate authority mandatory, the mere absence of a further oral hearing, after the petitioner had already been given an opportunity of defence during the inquiry and before imposition of penalty, would not by itself invalidate the appellate order. The petitioner has also not demonstrated that any material ground raised in his appeal remained wholly unconsidered or that the appellate authority acted without jurisdiction.

15. The objection of the respondents regarding maintainability under Article 199 of the Constitution, however, cannot be accepted in its absolute form. Constitutional jurisdiction is available where a public authority acts without lawful authority, violates mandatory procedure, infringes a fundamental right or reaches a decision vitiated by mala fide or patent illegality. Therefore, the mere availability of departmental proceedings does not, in every case, oust the jurisdiction of this Court. Nevertheless, the existence of constitutional jurisdiction does not transform this Court into an appellate departmental forum. Judicial review is concerned principally with the legality, fairness and propriety of the decision-making process rather than re-determination of disputed questions of fact.

16. In the instant matter, the petitioner has failed to establish that the Inquiry Committee lacked jurisdiction, that the prescribed disciplinary procedure was not followed, that the competent authority acted without lawful authority, or that the findings were based on no evidence. On the contrary, the respondents have placed reliance upon material including the petitioner's own statement, witness statements, allegations regarding receipt of illegal gratification of Rs.96.1 million, accumulation of assets beyond known sources of income and recovery of valuable articles. Whether that material was/is sufficient to establish misconduct was/is

primarily for the competent departmental authorities to determine at their own end. We find no basis, on the material placed before us, to hold that their conclusion was/is so unreasonable, perverse or unsupported by evidence as to justify constitutional interference.

17. The argument that the petitioner was incarcerated when the departmental proceedings commenced also cannot be considered in isolation. Incarceration may undoubtedly create practical difficulties in defending departmental charges, and the disciplinary authority must ensure that such circumstances do not result in denial of a meaningful opportunity of defence. However, in the present case, the petitioner subsequently participated in the proceedings, submitted his response, raised his objections, appeared for personal hearing and pursued a departmental appeal. Therefore, the fact of his earlier incarceration, by itself, does not establish that the entire proceedings were conducted in violation of Article 10-A of the Constitution.

18. We are conscious that the allegation of corruption against an employee cannot justify departure from the requirements of fair procedure. At the same time, Article 10-A of the Constitution cannot be invoked as a means to secure a second evaluation of departmental evidence where the employee has been provided a reasonable opportunity to defend himself. In such circumstances, we are cognizant of the fact that the Court must maintain a balance between protection of an employee's procedural rights and preservation of the lawful disciplinary authority of the employer. However, departmental inquiry is not rendered unlawful merely because the employee disputes the factual conclusions reached therein.

19. In view of the foregoing discussion, we are of the considered view that the petitioner has failed to demonstrate any violation of Article 10-A of the Constitution, denial of a meaningful opportunity of defence, breach of the applicable disciplinary procedure, mala fide exercise of authority, want of jurisdiction or perversity in the findings sufficient to invoke the extraordinary jurisdiction of this Court under Article 199 of the Constitution. His challenge, in substance, seeks re-appraisal of the evidence and substitution of the departmental findings, which cannot be permitted in constitutional jurisdiction under Article 199 of the Constitution.

20. Before parting with this order, we may observe that both petitions Nos. D-4905 of 2023 and 5601 of 2024 were heard together and are being decided separately for the reasons that both cases are distinguishable based on the nature and extent of procedural violations established on the record. In *Karim Bux's case*, although the respondents asserted that a regular inquiry, show-cause notice and personal hearing had been provided, the Court found material procedural

deficiencies which went to the root of the disciplinary process, including reliance upon additional allegations not forming part of the original charge-sheet, non-supply/confrontation of material such as the alleged CDR analysis and cross-examination proceedings, non-examination of a material witness Aijaz Ali Dawach whose alleged version was relied upon, and failure of the appellate authority to pass a reasoned and speaking order; consequently, the Court held that the petitioner had not been afforded a meaningful opportunity of defence and set aside the dismissal and appellate orders, remanding the matter for fresh proceedings. Conversely, in *Muneer Ahmed's case*, this Court found that the petitioner was served with the charge-sheet and statement of allegations, participated in the inquiry, was allowed to confront and cross-examine witnesses, submitted his response, received a show-cause notice, was granted personal hearing, and subsequently pursued a departmental appeal; the petitioner failed to demonstrate any specific procedural violation causing substantial prejudice, while the departmental findings were supported by material including his statement, witness statements and allegations of substantial illegal gratification and assets beyond known sources. This Court therefore treated his challenge essentially as an attempt to seek re-appraisal of departmental evidence, which was impermissible in constitutional jurisdiction, and dismissed the petition. Thus, the distinguishing feature is that Karim Bux established material denial of a fair and effective opportunity of defence and reliance on un-confronted material, whereas Muneer Ahmed was found to have been afforded the prescribed procedural safeguards and failed to establish substantial prejudice or patent illegality warranting interference under Article 199 of the constitution.

21. Consequently, this petition is dismissed, being devoid of merit. The interim relief, if any, shall stand vacated. There shall be no order as to costs.

JUDGE

JUDGE

Nadeem Qureshi PA