

**JUDGMENT SHEET
IN THE LAHORE HIGH COURT, MULTAN BENCH,
MULTAN
JUDICIAL DEPARTMENT**

W. P. No.1532 of 2021

Muhammad Akram Sohail

Versus

Govt. of the Punjab through Secretary Forest Department, Punjab,
Lahore & others

JUDGMENT

Date of hearing: 23.04.2024.

Petitioner by: Rao Muhammad Adnan Jamshaid Khan,
Advocate.

Respondents by: Syed Wajid Hussain Rizvi, Assisaatant
Advocate General.

MUHAMMAD SAJID MEHMOOD SETHI, J.-

Through instant petition, petitioner has assailed vires of order dated 18.01.2021, passed by respondent No. 2 / Divisional Forest Officer, Layyah Forest Division, Layyah, whereby inquiry proceedings were initiated against petitioner under Section 3 of the Punjab Employees, Efficiency, Discipline and Accountability Act, 2006 (“PEEDA, 2006”) on the charges of inefficiency and misconduct, with the allegation that during petitioner’s posting as Forest Guard, a damage of 466 trees worth Rs.40,26,500/- was sustained in his beat / block i.e. Dad Block.

2. Learned counsel for petitioner submits that petitioner was issued a show cause notice and after completing all the codal formalities, he was exonerated vide order dated 08.05.2019, therefore, he could not have been proceeded again against same charges. He adds that under the provisions of PEEDA, 2006, respondent No.2 has no power to review his earlier order, especially when order dated 08.05.2019 had attained finality. He argues that under Article 13 of the Constitution of the

Islamic Republic of Pakistan, 1973, no one can be punished twice with the same allegation and said provision protects the citizens from double jeopardy. He contends that in fact inquiry was initiated only against respondents No.7 to 9, and petitioner was wrongly held responsible for shortage of the trees, thus, the Inquiry Officer has travelled beyond his jurisdiction.

3. When confronted, learned Law Officer could not deny the above submission that in presence of order dated 08.05.2019 withdrawing show cause notice issued against petitioner, *de novo* inquiry proceedings could not have been initiated against him, however submits that instant writ petition is not maintainable against order of initiation of inquiry proceedings.

4. Heard. Available record perused.

5. Record shows that a show cause notice dated 05.01.2019 was issued against petitioner while he was holding additional charge of Dad Block, a shortage of 528 trees was observed for which the government sustained a heavy loss, thus an enquiry was initiated in the matter. Petitioner tendered reply to the show cause notice and the Range Forest Officer submitted report in petitioner's favour by observing that balance shortage of 676 trees from Hayat Disty, 150 trees from 3/R Minor Hayat and 46 trees from Lal Minor existed and he proposed initiation of disciplinary action against one Azhar Abbas, Forest Guard, the then Incharge of Hayat Tail Beat. In this backdrop, show cause notice dated 05.01.2019, issued against petitioner, was withdrawn vide order dated 08.05.2019, passed by respondent No.2. Subsequently, inquiry proceedings were initiated against Adnan Yousaf, Forester, Muhammad Amanullah, Forest Guard and Azhar Abbas, Forest Guard, however they were also exonerated vide order dated 18.01.2021, passed by respondent No.2, again petitioner was held responsible and impugned show cause notice was issued against him.

6. The matter was one and the same and the competent authority was also the same. A detailed inquiry ended in

petitioner's support and upon receipt of inquiry report, three options or courses of action were available with the competent authority, who could either exonerate petitioner or punish him or order a *de novo* inquiry, if it was satisfied that inquiry proceedings were not conducted lawfully or on merits. In this case, the competent authority exonerated petitioner, thus it could not initiate fresh or *de novo* inquiry proceedings against him. Since there is no provision in the relevant law which empowered respondent No. 2 to review his own previous decision to withdraw the disciplinary proceedings initiated against petitioner, I am of the view that the impugned order to re-initiate inquiry proceedings against petitioner is without lawful authority. The competent authority cannot reopen the matter against the petitioner as it is settled law that one cannot be vexed twice for the same cause. Reliance in this regard can be placed upon Javed Maqbool Bhatti v. Secretary, Irrigation and Power Department [1998 PLC (C.S.) 208], Mrs. Khalida Amjad v. Government of the Punjab through Secretary of Education, Lahore and another [2009 PLC (C.S.) 1], Muhammad Tariq Saeed and 2 others v. Government of the Punjab through Secretary Forest, Wildlife and Fisheries Department and 2 others [2011 PLC (C.S.) 884] and Rana Tahir Hassan Khan v. Capital Development Authority and others (2022 CLC 454).

7. Needless to observe here that once disciplinary proceedings were dropped by the respondent-authority, there was no occasion to again proceed against petitioner for same charges. Such act of authorities is against the principles of natural justice as initiating fresh proceedings did not mean that civil servant should be proceeded again on the same charges, which were not found correct in earlier proceedings. Inquiry can only be conducted if there are charges other than the earlier charges on which show cause notice / disciplinary proceedings was withdrawn / dropped. Reliance is placed upon

Administrator/Pakistan Defence Officers Housing Authority
Karachi v. Ghulam Mustafa Khan and another (2011 SCMR
480).

8. So far as argument of learned Law Officer that instant petition is not maintainable against initiation of inquiry proceedings is concerned, suffice it to say that since petitioner has undergone the process of earlier inquiry and subsequent inquiry proceedings are illegal and unlawful under well-settled principles of law, thus, the same can be questioned before this Court, especially when appeal before the Service Tribunal lies only against final order. Therefore, this objection, being misconceived, is repelled. Reference can be made to Hasanat Gul and 8 others v. The Chief Minister,
Khyber Pakhtunkhwa through Principal Secretary [2018 P L C
(C.S.) Note 48]

9. Needless to observe here that public functionaries owe a fiduciary duty to act in good faith and discharge their duties with honesty and in accordance with law. Public functionaries are expected to perform their duties fairly, justly and well within the prescribed limits of the law of the land. Omissions and actions of public functionary while in authority, shall not be limited to himself but sure to prejudice rights and obligations of others, if he fails to do justice with the assigned duties.

10. In view of the above discussion, instant petition is allowed. Consequently, impugned order dated 18.01.2021, passed by respondent No. 2 is set aside being illegal and without lawful authority to the extent of petitioner.

**(Muhammad Sajid Mehmood Sethi)
Judge**

APPROVED FOR REPORTING

Judge