

**JUDGMENT SHEET  
IN THE PUNJAB SUBORDINATE JUDICIARY  
SERVICE TRIBUNAL LAHORE**

**Service Appeal No. 03 of 2022**

***Muhammad Anayet Gondal  
Versus  
The Registrar, Lahore High Court, Lahore***

**JUDGMENT**

Date of hearing: 25.04.2024.  
Appellant by: Mian Tariq Hussain, Advocate.  
Respondent by: Mr. Zawar Ahmad Sheikh, Advocate.

**MUHAMMAD SAJID MEHMOOD SETHI, J. / CHAIRMAN:-**

Through instant appeal, the vires of orders / letters dated 11.12.2021 and 19.01.2022, passed by respondent, have been assailed, whereby representations of appellant for treating the intervening period from the date of dismissal to the date of reinstatement into service as on duty and grant of back benefits were declined.

2. Brief facts of the case are that appellant was dismissed from service vide Notification dated 28.05.2012. He assailed said notification through Service Appeal No.11 of 2012, which was accepted vide judgment dated 16.01.2015, afore-said Notification was set aside, and appellant was reinstated into service with immediate effect vide notification dated 27.03.2015. Appellant filed Service Appeal No. 13 of 2015, which was allowed vide judgment dated 03.11.2017. Consequently, vide Notification dated 02.04.2019, appellant was reinstated into service from the date of his dismissal. Subsequently, appellant moved representations for grant of back benefits while treating the intervening period as period spent on duty, but the same were declined vide impugned orders / letters dated 11.12.2021 and 19.01.2022, passed by respondent. Hence, instant appeal.

3. Learned counsel for appellant submits that appellant had been reinstated into service from the date of his dismissal,

therefore, intervening period is required to be declared as spent on duty. He further submits that appellant did not remain gainfully employed during the intervening period, therefore, there was no justification to deny back benefits. He contends that similarly placed colleagues of appellant were awarded back benefits but appellant was subjected to gross discrimination in the matter. In support, he has placed reliance on Muhammad Sharif and others v. Inspector General of Punjab, Police, Lahore and others (2021 SCMR 962).

4. On the other hand, learned counsel for respondent submits that appeal, being barred by time, is liable to be dismissed. Adds that the authority is not bound to assign reasons and it is discretionary power of authority to grant back benefits. Further submits that representations of appellant were declined in accordance with law.

5. Heard. Available record perused.

6. Undeniably, appellant had been reinstated into service from the date of his dismissal, however the authority did not pass any order regarding intervening period and consequent benefits. The stance of appellant is that he was not employed for gain during the intervening period, rather his request to practice as an Advocate was also declined by the authority, therefore, he is entitled for grant of back benefits.

7. The Supreme Court of Pakistan, in a number of pronouncements, has categorically declared that back benefits shall be granted for the intervening period, during which an employee remained out of service and did not engage in any gainful profession. The concept of *reinstatement into service with original seniority and back benefits* is based on the established principle of jurisprudence that if an illegal action / wrong is struck down by the Court, as a consequence, it is also to be ensured that no undue harm is caused to any individual due to such illegality / wrong or as a result of delay in the redress of his grievance. If by virtue of a declaration given by the Court a civil servant is to be treated as being still in service, he should also be

given the consequential relief of the back benefits (including salary) for the period he was kept out of service as if he was actually performing duties. The grant of back benefits, in such situation, is a rule and denial of such benefit is an exception on the proof that such a person had remained gainfully employed during the intervening period. Reliance is placed upon Pakistan through General Manager, P.W.R., Lahore v. Mrs. A.V. Issacs (**PLD 1970 Supreme Court 415**), Inspector General of Police, Punjab v. Tariq Mahmood (**2015 SCMR 77**) and Muhammad Sharif and others v. Inspector General of Police, Punjab, Lahore and others (**2021 SCMR 962**).

8. The appellant has specifically pleaded that other similarly placed judicial officers were granted service / financial back benefits (copies of such notifications are available at Page Nos. 186 to 196 of this appeal), however he has been subjected to gross discrimination in the matter, which is in violation of equality clause contained in Article 25 of the Constitution of the Islamic Republic of Pakistan, 1973.

This stance of appellant could not be rebutted by learned counsel for respondent, despite arguing the case at some length.

9. As the appellant's claim of back benefits is found to be valid and his entitlement has been established, the impediment of limitation cannot be allowed to come in his way, in view of dictum laid down by the Supreme Court of Pakistan in case reported as Abdul Hameed and others v. Water and Power Development Authority through Chairman, Lahore and others (**2021 SCMR 1230**).

10. In view of above discussion, instant appeal is **allowed** and respondent is directed to calculate the financial back benefits of appellant in the light of case law referred supra.

**(Muhammad Sajid Mehmood Sethi)**  
**Chairman**

**(Abid Hussain Chattha)**  
**Member**

**(Rasaal Hasan Syed)**  
**Member**