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JUDGMENT SHEET
LAHORE HIGH COURT
RAWALPINDI BENCH RAWALPINDI
JUDICIAL DEPARTMENT

Writ Petition No.2763/2023

Muhammad Danish Sajid *Versus* Secretary, Government of Punjab etc.

J U D G M E N T

Date of Hearing:	04.11.2024
Petitioner by:	Mr. Atitq ur Rehman Kiani, Advocate.
Respondents No.1 & 2 by:	Mr. Imran Shaukat Rao, Assistant Advocate General
Respondents No. 3 to 5 by:	Mr. Waqar ul Haq Sheikh, Advocate with Kamran Khan, Chief Officer, District Council, Rawalpindi.

Anwaar Hussain, J. The petitioner, who was appointed, on contract, on the basis of Rule 17-A of the Civil Servants (Appointment and Conditions of Service) Rules, 1974 (omitted since 24.07.2024) was terminated with effect from 31.12.2017 through order dated 25.11.2017 by serving one-month notice. The order dated 25.11.2017 reflects that the petitioner has been found guilty of misconduct and inefficiency during the inquiry conducted by the respondent-department, under the Punjab Employees Efficiency, Discipline and Accountability Act, 2006 (“**the Act**”), as he remained absent from duty for three days from 29.08.2017 to 31.08.2017. The petitioner challenged the said order by filing an appeal under the Act before Additional Commissioner (Revenue), Rawalpindi who through order dated 03.08.2020 (announced on 29.07.2020) re-instated the petitioner in service on the ground that the punishment awarded to the petitioner did not commensurate with his guilt and the intervening period was treated as leave without pay. Against order dated 03.08.2020, no formal revision was filed by the respondent-department, however, a letter was written by the Administrator, Tehsil

Council, Rawalpindi to the Secretary Local Government and Community Development Department for guidance, who, *vide* order dated 14.09.2021 (“**the impugned order**”), held that the order passed by the Additional Commissioner (Revenue), Rawalpindi is not covered under the Contract Appointment Policy, 2004 (“**the Policy**”) as there is no provision in the Policy envisaging re-instatement of a contractual employee, after termination of his service. Hence, this constitutional petition.

2. Learned counsel for the petitioner submits that the career of the petitioner has been stigmatized and after initiating the proceedings under the Act, the respondent-department took a somersault and, invoked the clauses of the Policy to terminate the services of the petitioner by issuing one-month notice, which was rightly challenged by the petitioner in appeal and order dated 03.08.2020 passed by the Appellate Authority is in accordance with law, which requires to be implemented as no formal revision was filed by the respondent-department against the said order. Further contends that this Court, in number of judgments, has categorially held that the appointment under Rule 17-A should be on regular basis and all employees appointed under the Policy should be regularized to which the petitioner was also entitled *albeit* for wrongful termination of his contract, said benefit could not be extended to the petitioner. Places reliance on the case reported as “Ali Ahmed v. EDEO, Silakot and another” (2014 PLC (CS) 793).

3. Conversely, learned Law Officer, alongwith learned counsel for respondent-department, has supported the impugned order.

4. Arguments heard. Record perused.

5. Admittedly, the petitioner was appointed under the repealed Rule 17-A, on contract basis and was terminated from service after initiating an inquiry and stigmatizing his career. The petitioner was

inducted in service on 03.07.2014, which was extended for another three years period that was to expire on 03.07.2020 and in between the said contractual period, he was proceeded against on account of misconduct under the Act. Once the disciplinary proceedings were initiated, the respondent-department were estopped from taking a somersault and invoking the clauses pertaining to termination of contractual appointment by serving one- month notice, inasmuch as this Court in case of *Ali Ahmed supra* held that the appointments under Rule 17-A are to be made on regular basis from the outset and not on contractual basis. Similar view was taken in case reported as “*Kashif Mehmood Zaman v. Chief Executive Officer, District Education Authority, Lahore and 3 others*” (2021 PLC(CS) Note 16). The legal position enunciated by this Court in case of *Ali Ahmed supra* has also been adopted as policy by the Government of the Punjab in terms of notification bearing No.SOR-III(S&GAD)2-8/2018 dated 29.10.2019 (“**the Notification**”) wherein it has been mandated by the government itself that the appointments under Rule 17-A made after the year 2009, on contract basis, were unlawful and such contractual employees were to be regularized. In terms of Notification, the petitioner was to be appointed on regular basis since date of his induction, i.e., 03.07.2014 and hence, entitled to regular inquiry. The action of the respondent-department in first denying the regular appointment to the petitioner on the basis of Rule 17-A and then not proceeding further in terms of the Act violated due process rights of the petitioner. Hence, the Additional Commissioner (Revenue), Rawalpindi, rightly treated appointment of the petitioner as regular, by operation of the Notification whereas the Revisional Authority has taken jaundiced view of the matter by not appreciating this aspect of the matter while passing the impugned order. Therefore, the impugned order cannot sustain.

6. For what has been discussed above, this writ petition is **allowed** and the impugned order is set aside with direction to the respondent-

department to forthwith implement order dated 03.08.2020 passed by the
Additional Commissioner (Revenue), Rawalpindi.

(ANWAAR HUSSAIN)
Judge

Approved for reporting.

Judge

Akram