

**JUDGMENT SHEET**  
**IN THE ISLAMABAD HIGH COURT,**  
**ISLAMABAD**

**WRIT PETITION NO. 3976 OF 2013**

**Altaf Hussain**

**Vs.**

**State Bank of Pakistan, etc**

**Petitioner:** M/s Mazhar Javed, Rab Nawaz & Syed Wajahat Abbas Bukhari, Advocates.

**Respondent Nos.1& 2:** Mr. Rehan Nawaz, Advocate.

**Date of Decision :** 06.03.2020.

**LUBNA SALEEM PERVEZ, J.** Petitioner has invoked the constitutional jurisdiction of this Court by way of filing this writ petition under article 199 of the Constitution of Islamic Republic of Pakistan 1973, for setting aside Staff Order No. 50, dated 29.08.2002, through which his services were terminated by the Respondent, and his re-instatement with back benefits.

2. Brief facts leading to filing of this petition are that the Petitioner on the suggestion of his friend namely Sheikh Naveed obtained loan from ABL for purchasing a computer in the year 2000. Statedly, petitioner was not aware as to how Sheikh Naveed managed the formalities for obtaining the loan because he only signed the application. However, on receipt of show cause notice dated 24.05.2002 he came to know that the loan was obtained by using the letter heads of the Respondent Bank which contained forged signatures of the Treasury Officer and his rubber stamp. Petitioner then got registered FIR against Sheikh Naveed as he was the person who fraudulently arranged for the loan in petitioner's name. However, Petitioner was dismissed from service on the said charges and for damaging the image of the Respondent Bank before other commercial banks as

well as deliberately committing acts detrimental to the interests of the Respondent Bank.

3. Learned Counsel for Petitioner submitted that petitioner has served respondent bank for 20 years without any stigma on his career and the disciplinary proceedings against the Petitioner were initiated under State Bank of Pakistan Staff Regulations 1999, with *mala-fide* intentions as at that time Removal from Services (Special Power) Ordinance, 2000 was in the field; that the actual cause was the grudge of the Respondent against the Petitioner as he was the activist of the Trade Union; that the impugned action against him was pre-planned; that actual fraud was committed by Sheikh Naveed and not the Petitioner and the petitioner was condemned unheard, and that imposing the penalty of dismissal from service is harsh, unreasonable and arbitrary and the impugned dismissal order is liable to be quashed.

4. Conversely, learned counsel started his arguments by raising objection to the maintainability of the present petition on the ground that the rules of the State Bank of Pakistan are non-statutory in nature and relation between its employees and the Bank is of Master and Servant. Learned counsel for Respondent further raised the objection of laches as the impugned dismissal order is dated 29.08.2002 but this petition has been filed on 22.10.2013 for its quashment and setting aside and for petitioner's re-instatement with back benefits. Learned counsel in support of objection of laches/limitation placed reliance on case titled *S.A. Jameel vs. Sec to Govt to Punjab Cooperative Dept (2005 SCMR 126)*. Learned counsel further submitted that the appropriate judicial forum available to the Petitioner from year 2002 to 2006 was Services Tribunals in the meantime, IRA 2010 was promulgated, therefore, the petitioner could have availed remedy before NIRC. Learned counsel while referring the case law reported as *PIAC vs. Tanveer-ur-Rehman (PLD 2010 SC 676)*; *Chief Manager SBP Lahore vs. Muhammad Shafi (2010 CLC (CS)*

*1088); Syed Nazir Gilani vs. Pakistan Red Crescent Society (2014 SCMR 982) and Muhammad Zaman & Others vs. Government of Pakistan & Others (2017 SCMR 571 )* contended that the rules of the State Bank of Pakistan are non-statutory in nature, therefore, the petition is not maintainable.

5. In rebuttal, learned Counsel for Petitioner submitted the following sequence of orders of various courts where he filed appeal, application and petitions to redress his grievance prior to approaching this Court:-

- i. Show cause notice issued on 24.05.2002;
- ii. Reply filed on 23.06.2002;
- iii. Impugned order for dismissal issued on 29.08.2002;
- iv. Preferred Departmental Appeal on 11.09.2002 which was rejected on 21.04.2003;
- v. Appeal filed before Federal Services Tribunal on 28.09.2003 which was abated by Federal Services Tribunal on 27.06.2006 vide order dated 10.07.2006;  
*(Note: Judgment passed in the case of Mubeen-ul-Islam in the year 2006 reported as (PLD 2006 SC 602) allowed 3 months to the aggrieved person to avail remedy before appropriate forum)*
- vi. Appeal before Labour Court filed on 02.10.2006, which was returned to the Petitioner on 23.01.2008 on the ground that SBP has statutory Rules;
- vii. Filed Misc Petition before Federal Services Tribunal on 04.02.2009 which was dismissed on the point of jurisdiction on 22.01.2010;
- viii. Present Petition filed on 22.10.2013.

Learned counsel for the Petitioner further submitted that during the entire period, the Petitioner was pursuing his case in courts of law and after losing hope from everywhere he knocked the door of this Court by invoking the constitutional jurisdiction. Replying the objection of laches learned counsel submitted that the initial order dated 29.08.2002 was an illegal order, therefore, bar of limitation does not apply. Learned counsel in this regard placed reliance on the case of *Muhammad Aslam vs. Civil Defence Officer Jehlum (2013 CLC 853)*. Regarding the maintainability of the petition, learned counsel relied on the case law reported

as *Pakistan Defence Officers' Housing Authority & Others Vs Lt. Col. Syed Jawaid Ahmed & others (2013 S C M R 1707)*.

6. Arguments of the Learned Counsel for the parties have been heard and the record along with case law has also been perused with their able assistance.

7. The case record have carefully been examined which shows that the petitioner was dismissed from service, vide order dated 29.08.2002, on the allegation of fraud of using official letter pads of the Respondent and for forging signatures and rubber stamp of the concerned Treasury Officer for the purposes of obtaining loan from ABL in year 2000. Whereas, Petitioner for this allegation blamed his friend Sheikh Naveed on the basis of an FIR lodged against him. However, no such FIR was made part of the record appended with the Petition. Petitioner neither referred this FIR and related facts in his reply dated 11.09.2002 (page 13 of the Petition) submitted in response to the show cause notice dated 24.05.2002 nor he challenged the legality of the proceedings. His reply/appeal was rather a mercy petition, for re-instatement in service, from the Respondent. Petitioner, however, filed appeal against the impugned order of dismissal from service order before Federal Services Tribunal challenging that the inquiry against him has been initiated under irrelevant law i.e. 34(i)(g) of the Staff Regulations, 1999 as the prevailing law at the relevant time was The Removal from Services (Special Powers) Ordinance, 2000. But in view of the Mubeen-ul-Islam judgment PLD 2006 SC 602 his appeal was also abated on 27.06.2003. Since, then he tried every forum but on the point of jurisdiction his appeal or grievance was not accepted for hearing. It seems that on the strength of the judgment of the Hon'ble Supreme Court passed in the case of *Pakistan Defence Officers' Housing Authority & Others Vs Lt. Col. Syed Jawaid Ahmed & others (2013 S C M R 1707)* the Petitioner filed this Petition on 22.10.2013, after dismissal of petitioner's miscellaneous petition by the FST vide order dated 22.01.2020 (i.e. after more than

3 and a half years). Thus, rightly objected to by the learned counsel for the respondent being hit by laches.

8. The judgments of the Hon'ble Supreme Court relied upon by Learned Counsel for the Respondent supports the contention that the State Bank of Pakistan has non-statutory rules/regulations therefore this petition is not maintainable in view of the following rulings:

i. **PIAC vs. Tanveer-ur-Rehman (PLD 2010 SC 676)**

*".....however, where his terms and conditions are not governed by statutory rules but only by regulations, instructions or directions, which the institution or body, in which he is employed, has issued for its internal use, any violation thereof will not, normally, be enforced through a writ petition". Likewise, in Raziuddin v. Chairman, PIAC (PLD 1992 SC 531), this Court has held that "the legal position obtaining in Pakistan as to the status of employees of the Corporations seems to be that the relationship between a Corporation and its employees is that of Master and Servant and that in case of wrongful dismissal of an employee of the Corporation, the remedy, is to claim damages and not the remedy of reinstatement; however, this rule is subject to a qualification, namely, if the relationship between a Corporation and its employees is regulated by statutory provisions and if there is any breach of such provisions, an employee of such a Corporation may maintain an action for re-instatement"*

ii. **Chief Manager SBP Lahore vs. Muhammad Shafi (2010 CLC (CS) 1088)**

*"The omission of the aforesaid words subject to the approval from section 54 is meaningful. Rules framed by the Central Board of Directors which does not require approval of the Government, therefore aforesaid regulations may be termed as internal instructions or domestic rules/regulations having no status of statutory rules/regulations as law laid down by this Court in various pronouncements"*

iii. **Muhammad Zaman & Others vs. Government of Pakistan & Others (2017 SCMR 571)**

*".....In the case before us, the Regulations were made pursuant to section 54(1) of the Act and section 54(2) thereof goes on to provide the particular matters for which the Board can frame regulations [while saving the generality of the power under section 54(1) of the Act]. Out of all the matters listed in section 54(2) of the Act, clause (j) is the most relevant which pertains to the "recruitment of officers and servants of the Bank including the terms and conditions of their service, constitution of superannuation, beneficial and other funds, with or without bank's contribution, for the officers and servants of the Bank; their welfare; providing amenities, medical facilities, grant of loans and advances, their betterment and uplift". A perusal of the Regulations suggests that they relate to pension and gratuity matters of the employees of SBP and therefore it can be said that the ambit of such Regulations is not broader but narrower than the parent statute, i.e. the Act. Thus the conclusion of the above discussion is that the Regulations are basically instructions for*

*the internal control or management of SBP and are therefore non-statutory. Hence the appellants could not invoke the constitutional jurisdiction of the learned High Court which was correct in dismissing their writ petition.*

9. Learned Counsel's reliance for maintainability of the present petition on *Pakistan Defence Officers' Housing Authority & Others Vs Lt. Col. Syed Jawaid Ahmed & others (2013 S C M R 1707)* has also been answered by the Hon'ble Apex Court in the following judgment relied upon by the Learned Counsel for the Respondent:-

***Syed Nazir Gilani vs. Pakistan Red Crescent Society (2014 SCMR 982)***

*Having heard learned counsel for the petitioner at some length, we find that it has now been well settled that the Rules framed by the Pakistan Red Crescent Society are non-statutory and on that count the writ petition was not maintainable. This Court has dilated on this aspect at length in Pakistan Defence Officer's Housing Authority v. Lt. Col. Syed Jawaid Ahmed (2013 SCMR 1707) wherein in para 50(ii) it has specially been held as follows:--*

*"Where conditions of service of employees of a statutory body are not regulated by Rules/Regulations framed under the Statute but only Rules or Instructions issued for its internal use, any violation thereof cannot normally be enforced through writ jurisdiction and they would be governed by the principle of 'Master and Servant'"*

Through the above ruling it has also been clarified that where the rules/regulations are non-statutory the relationship between the employee and the employer then would be governed by the rule of Master & Servant.

10. The Hon'ble Supreme Court vide judgment reported as **2017 SCMR 571**, referred above, has also interpreted the provisions of section 54(1) of the State Bank of Pakistan Act, 1956 granting 'Powers of Board to make regulations' and thus concurred with the earlier judgments of the Apex Court (**2010 CLC (CS) 1088**) that *'the omission of the aforesaid words subject to the approval from section 54 is meaningful. Rules framed by the Central Board of Directors which does not require approval of the Government, therefore, aforesaid regulations may be termed as internal instructions or domestic rules/regulations having no status of*

*statutory rules/regulations as law laid down by this Court in various pronouncements’.*

11. As noted in the earlier part of the judgment that the petition has been filed after a lapse of more than 3 ½ years, the learned counsel for the petitioner in this regard could not put forth any plausible explanation for this inordinate delay. It has been well settled by law that law helps vigilant and not the indolent. Law requires swiftness and vigilance by the litigant to look after its own interest for redressal of the grievance. The Hon’ble Singh High Court in this regard in case “***Iqbal Ahmed vs. Government of Sindh and others***” (PLD 2007 Kar 353) and observed as under:-

*“Laches alone is not sufficient to dismiss the petitions if the petitioners have otherwise a good case. In the absence of bar of limitation the period within in which such remedy is to be sought is to be reasonable one and element of due diligence is to be kept in mind. The important fact is that the delay should never be such as to generate a belief or situation of abandonment of right because, then, vested rights come into operation which cannot be deviated from. Question of laches in petition is always considered in the light of conduct of the person invoking the constitutional of High Court. The petitioners have to explain the reasons for not approaching the Court within reasonable time and in the absence of cogent explanation the interference can be refused on the ground of laches”.*

12. In view of above, I am of the opinion that the petition is not maintainable on the point of laches as well as the law settled by the Hon’ble Supreme Court that the Rules and Regulations of the State Bank of Pakistan are non-statutory, hence, the present petition is accordingly dismissed.

**(LUBNA SALEEM PERVEZ)**  
**JUDGE**

Announced in open Court this 13<sup>th</sup> day of April, 2020.

**JUDGE**