

Form No: HCJD/C-121  
ORDER SHEET  
IN THE ISLAMABAD HIGH COURT, ISLAMABAD  
(JUDICIAL DEPARTMENT)

W.P. No. 581/2022

Falz-E-Akif

Versus

Full Bench of NIRC, etc.

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	18-02-2022	Mr Misbah Ullha, Advocate for petitioner.

Athar Minallah, C.J.- The petitioner has invoked the jurisdiction of this Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 (*hereinafter referred to as the 'Constitution'*) assailing order, dated 25-11-2021, passed by the learned Full Bench of the National Industrial Relations Commission (*hereinafter referred to as the 'Commission'*).

2. The facts, in brief, are that the petitioner was an employee in Grade-5, in the Islamabad Electric Supply Company (*hereinafter referred to as the 'Company'*). He was appointed in 1995. However, without informing the competent authority, he

remained absent from duty with effect from 02-08-2007. He was served with show cause notice, dated 25-10-2007. In response to the show cause notice, the petitioner had explicitly informed that he was not inclined to serve the Company and, therefore, he may be granted retirement. After considering the petitioner's reply, the competent authority vide order, dated 20-03-2008, imposed major penalty of compulsory retirement from service with effect from 02-08-2007. The grievance notice was served by the petitioner on 18-05-2018. The learned single member of the Commission vide order, dated 03-03-2020, allowed the petition and directed the Company to reinstate the petitioner in service with all back benefits. The Company preferred an appeal, which was allowed by the learned Full Bench vide the impugned order, dated 25-11-2021.

3. The learned counsel for the petitioner has been heard at length. He has mainly argued that a major penalty could not have been imposed on the basis of reply to the show cause notice; the petitioner had explained the reasons for his absence from duty and, therefore, a regular inquiry should have been conducted; the impugned order was

passed on the basis of misreading and non-reading of the record.

4. The petitioner was served with show cause notice after he absented himself from duty without informing the competent authority. He was served with a show cause notice after more than two months of unauthorized absence. In his reply to the notice, he admitted his unauthorized absence and also unambiguously stated that he was no more interested in serving the Company. He had explicitly requested that he may be granted retirement from service. The competent authority after considering his reply imposed major penalty of compulsory retirement. The impugned order, dated 25-11-2021, is well reasoned and does not suffer from any legal infirmity. The misconduct regarding absence from duty was admitted and thus established. The petitioner himself had requested that he may be granted retirement. The petitioner was an adult and of sound mind when he had submitted his reply to the show cause notice. In the facts and circumstances of the case in hand, the Court is not inclined to interfere with the impugned order.

5. For the above reasons, the petition has been found to be meritless and, therefore, accordingly dismissed.

(CHIEF JUSTICE)

Luqman Khan/\*