# PUNJAB SERVICE TRIBUNAL, LAHORE

## ORDER SHEET

APPELLANT/
PETITIONER

APPEAL NO. 4197/2023 200

Muhammad Saleem Azam

Versus

The learned Registrar, Lahore High Court, Lahore RESPONDENT

| Serial No. of order of proceeding | Date of order of proceeding | Order with signature of Chairman, Members and that of parties or counsel, where necessary. |
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| | 15.12.2023 | **PRESENT**<br>1. Mr. Allah Nawaz Khosa, Advocate, Counsel for the appellant.<br>2. Mr. Masood Karim, D.A.<br>3. Mr. Tariq Mahmood, Stenographer, DR.<br>4. Mr. Shahzad Qaiser, SOC, DR.<br><br>Briefly, appellant while posted as Ahlmad in the court of Mr. Haris Ali, learned Additional District & Sessions Judge, Zafarwal was proceeded against under the Punjab Civil Servants (E&D) Rules, 1999, the Authority/D&SJ, Narowal, appointed Mr. Asim Mumtaz, learned Civil Judge Class-I, Zafarwal as inquiry officer to hold a regular inquiry against the appellant. The inquiry officer issued charge sheet dated 18.8.2022 to the appellant on the following allegations:-<br><br>*"That while posted as Ahlmad in the court of Mr. Shafqat Abbas Mighiana the then learned Civil Judge 1st Class, Zafarwal, you above named accused/official being custodian of file of civil suit titled as "Muhammad Azam Vs. Haleema Bibi etc." tampered original agreement to sell (Ex.P-1) by affixing double thumb impressions on second page of said agreement to sell over thumb impressions of Haleema Bibi and Abdul Majeed to favour the defendant's party of that suit, which fact came into the knowledge of above named learned Civil Judge 1st*<br><br>P.T.O. |

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Class, *Zafarwal on 30.06.2022 when Muhammad Azam moved an application with reference to above said tampering."*

Appellant submitted a detailed reply rebutting the charges leveled.

The inquiry officer after conducting inquiry submitted his report on 18.11.2022 held that the charges leveled stood proved, recommended for imposition of major penalty of removal from service upon the appellant.

The Authority/D&SJ, Narowal while agreeing with the recommendations of the inquiry officer, imposed major penalty of removal from service vide order dated 27.04.2023.

Appellant assailed the said order in departmental appeal before the Registrar, Lahore High Court, Lahore, which is still hanging fire. After lapse of statutory period appellant filed instant appeal.

2. Arguments heard, record perused.

3. Perusal of the record reveals that the appellant was awarded major penalty of removal from service on the ground that he tempered the original agreement to sell by affixing double thumb impressions on second page of agreement to sell over thumb impressions of Haleema Bibi and Abdul Majeed to favour the defendant's party of that suit.

Appellant in his reply to charge sheet as well as before the inquiry officer categorically submits that he had not made any tampering with the file of said case and he is totally innocent. Further, he did not temper the dates as order sheet is written by the Presiding Officer or by the Reader of the court and the tampering made on the cause list is of the same handwriting. Furthermore, nobody has seen appellant tempering with the said file/agreement to sell so much so PW-1 & PW-2 also not specifically put the allegations of tampering with the document against the appellant, hence the appellant has been penalized only on the basis of surmises and conjectures.

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After going through the cross-examination of the appellant, upon the PW-1 it clearly shows that the appellant did not tamper the original agreement to sell by affixing double thumb impressions of Haleema Bibi. The cross-examination of the appellant upon the PW-1 is reproduced as under:-

"مجھے کسی قسم کی کوئی بیماری نہ ہے۔ میری نظر ٹھیک ہے۔ میں پانچ تک پڑھا ہوں۔ مجھے تاریخ یاد نہ ہے کہ کس تاریخ کو Tempering کا علم ہوا۔ جب میں نے عدالت میں فائل دیکھی تھی تو فائل کاج جج صاحب کی طرف تھا۔ فائل پٹیل پہ تھی جو کہ سامنے سے نظر آرہا تھا۔ شفقت صاحب کی عدالت میں پیش ہوتا رہا ہوں۔ میں نے شفقت صاحب کی عدالت میں مسل معائنہ کی درخواست نہ دی تھی مجھے tempering کا جج صاحب نے بتایا تھا۔ جبکہ مجھے عدالت میں مسل دیکھ کر پتہ چلا تھا۔ میں نے اپنی درخواست میں کسی کا نام tempering کرنے کی ذمہ داروں کے متعلق نہ تحریر کیا تھا۔ اقرار نامہ کا اسٹام پیپر مورخہ 19-07-2017 کو لکھوایا تھا۔ دعوٰی میں نے سات ماہ بعد دائر کیا تھا۔ شفقت صاحب کی عدالت میں میرا مقدمہ سال 2022 میں آیا تھا۔ میں نے انگوٹھا جات چیک کروانے کی درخواست شہادت کے دوران دی تھی۔ جواب دعوٰی میں مخالف فریق نے تحریر کروایا تھا کہ ہمارے انگوٹھا جات نہ ہیں۔ یہ غلط ہے میں نے دوران جرح مقدمہ میں سیاہی انگوٹھا جات مختلف ہونے کا اقرار کیا تھا۔ مورخہ 19-11-2021 کو دوران جرح میرے گواہ کو مخالف فریق نے محمد حسین اور حلیم بی بی کے نشان انگوٹھا جات میں فرق ہونے کا سوال مجھ سے پوچھا تھا۔ یہ درست ہے کہ PW4 نے کہا تھا کہ جب حلیم بی بی کا انگوٹھا لگوایا تھا تو سیاہی خشک ہوگئی تھی اس لیے دوبارہ پانی ڈال کر انگوٹھا کا نشان لگوایا تھا۔ یہ درست ہے کہ PW1 حلیم بی بی نے اپنا نشان انگوٹھا تسلیم کرنے سے انکار کیا تھا۔ میں نے اقرار نامہ مسند مسل پر آنے اور میرے درخواست دینے تک کو مسل معائنہ کی درخواست نہ دی تھی۔ میں نے اقرار نامہ Exhibit کرنے کے بعد دستاویز محفوظ کرنے کی درخواست نہ دی تھی۔ البتہ درخواست tempering دینے کے بعد دی تھی۔"

I may observe here that there is no complaint against the appellant regarding corruption, hence the charges leveled against appellant on the basis of presumptions stood unproved. It is settled law that benefit of any doubt arising in a case has to be given to the accused.

4. Resultantly, in view of the facts discussed above, this appeal is **allowed,** impugned order dated 27.4.2023 is set aside. Appellant is reinstated into service and the intervening period shall be treated as leave of the kind due.

**Justice (R) Atir Mahmood**
CHAIRMAN

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Registrar
Punjab Service Tribunal
Lahore

Shahzad/*

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