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03.04.2024		<p><u>PRESENT</u></p> <ol style="list-style-type: none"> 1. Mr. Allah Nawaz Khosa, Advocate, Learned counsel for the appellant. 2. Mr. Masood Karim, learned District Attorney. <p>It is, inter-alia, contended by the learned counsel for the appellant that vide Notification dated 14.03.2022, the appellant was promoted as Deputy District Accounts Officer (BS-17) on regular basis and the said order was actualized and the appellant is working as District Accounts Officer, Faisalabad. However, vide impugned order dated 25.03.2024, the order of promotion has been withdrawn without issuance of any notice to the appellant, which is violation of the law laid down by the Hon'ble Supreme Court of Pakistan in case titled "Nazeer Ahmed Chakrani Vs. Govt. of Pakistan and others (2024 SCMR 623)". He submitted that the said order is in violation of Article 10-A of the Constitution of Pakistan 1973. Statedly, departmental appeal has also been filed, which is pending adjudication before the respondent No.1, which has not yet been entertained. Learned District Attorney, however, has objected the maintainability of this appeal being premature.</p> <p>2. While confronted with, the learned counsel for the appellant does not press this appeal and feels satisfied, provided a direction is given to the respondent No.1/ Chief Secretary Punjab to decide the departmental appeal in an expeditious manner. Request made by the learned Counsel for the appellant is tenable.</p> <p>3. In view of above, the titled appeal is disposed of with the direction to the respondent No.1 i.e. Chief Secretary, Punjab to decide the departmental appeal of the appellant, if still pending before him, in an expeditious manner. The Chief Secretary, Punjab is also directed to decide the matter regarding the grant of interim relief within seven days from the date of receipt of certified copy of this order, in view of the Transfer Policy, 1980 which reads as under:-</p> <p><i>"Government servants under transfer may represent against the order and the representation should be decided by the authority next above transferring authority (except where the transfer has been ordered by the Governor) expeditiously as far as possible, within one month. Officers</i></p>



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who submit representations for cancellation or holding in abeyance of transfer order on compassionate grounds may be allowed to stay back till their representations are decided and their relievers should be informed simultaneously".

(emphasis provided)

4. Till the decision of the grant of interim relief, the operation of the impugned order dated 25.03.2024 shall remain suspended, subject to the condition that he appellatant has not relinquished the charge.



[Signature]
CHAIRMAN



[Handwritten Signature]
4/4/24

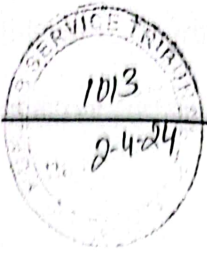
Shahbaz/-

Punjab Service Tribunal Lhr. Form No. 1813-24

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BEFORE THE PUNJAB SERVICE TRIBUNAL, LAHORE

Service Appeal No. 1013 /2024



PST LAHORE
Dated 13/04/24
01/04/24

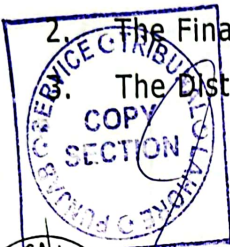
MR. JAVED IQBAL (Deputy District Accounts Officer BS-17),
District Accounts Office, Faisalabad.

...APPELLANT

VERSUS

1. The Chief Secretary, Government of Punjab, Lahore.
2. The Finance Secretary Government of Punjab, Lahore.
The District Accounts Office -I, Faisalabad

...RESPONDENTS



APPEAL U/S 4 OF THE PUNJAB SERVICE TRIBUNAL ACT 1974, AGAINST THE ORDER DATED 25-03-2024 WHEREBY THE APPELLANT WAS DEMOTED FROM DEPUTY DISTRICT ACCOUNTS OFFICER (BS-17) TO ACCOUNTANT WITHOUT GIVING AN OPPORTUNITY OF HEARING TO THE APPELLANT

Respectfully Sheweth:-

1. That the addresses of the parties have rightly been incorporated in the title / instant appeal for effective service of summons and notices upon the parties.
2. That briefly stated the facts of the case are that the appellant was appointed as deputy accountant in the year 03-05-1990.
3. That on 14-03-2022, the appellant was rightfully promoted to the position of Deputy District Account Officer (BS-17) against a regular post, following due process and in accordance with the recommendations of the departmental promotion committee. **(Annexure-A)**

*Earlier Appeal No- 3104/23 on similar subject matter is pending before the Tribunal
Chauhan*

It is imperative to highlight that all codal formalities were meticulously adhered to during the promotion process.

4. The respondent, as per the order dated 14-03-2022, has withdrawn the orders of the appellant without presenting any discernible legal rationale. This action lacks the requisite legal justification and contravenes principles of procedural fairness. Consequently, it raises concerns regarding the procedural integrity of the adjudicative process. Clarification on the legal basis for the withdrawal of the orders is imperative to ensure adherence to the principles of due process and the rule of law. Copy of impugned order is hereby enclosed as **Annexure-B**.
4. That the appellant have filed an appeal before the respond no.01 which is still pending. Copy of appeal is hereby enclosed as **Annexure-C**
5. That the impugned order dated 25-03-2024 is illegal, ex-parte, without jurisdiction, ab-initio, void, mala fide, arbitrary, discriminatory against law and facts on the following grounds:

GROUNDS

- I. The impugned order, issued by the Finance Secretary on 25-03-2024, has caused undue hardship and injustice to the appellant by revoking the rightfully earned promotion without affording an opportunity for a fair hearing. The principles of natural justice dictate that individuals should be given a reasonable opportunity to present their case before any adverse action is taken against them. However, in this instance, the appellant was deprived of this fundamental right.
- II. That it is imperative to note that the Honorable Supreme Court, as established in its reported judgment **2004 SCMR 623**, unequivocally

established the principle that an order of demotion, enacted without affording the appellant a fair opportunity of hearing, is deemed null and void, constituting a flagrant violation of legal principles. This precedent underscores the fundamental requirement of due process in administrative actions, highlighting the imperative nature of providing individuals with a fair and transparent adjudicative process before imposing punitive measures such as demotion.

III. That it is pertinent to mention that various Honorable courts have reiterated the principle that in the absence of allegations of fraud, misrepresentation, or the use of illegal means by the petitioner, and where the defects in the appointment are attributable to the Department, the principles of "vested rights," "past and closed transaction," and "locus poenitentiae" come into play. Under these principles, once an order for appointment has been made, it cannot be arbitrarily withdrawn at a belated stage. This doctrine safeguards the legitimate expectations and vested rights of the petitioner, ensuring fairness and justice in administrative actions. Such judicial pronouncements uphold the sanctity of appointments and provide a shield against arbitrary or whimsical actions by the authorities

fostering confidence in the rule of law and administrative processes. Reliance is placed in 2023 LHC 4923 Title Zahid Saleem Vs Secretary Government of Punjab Etc

IV. The Impugned order, issued by the Finance Secretary on 25-03-2024, has caused undue hardship and Injustice to the appellant by revoking the rightfully earned promotion without affording an opportunity for a fair hearing. The principles of natural justice dictate that individuals should be given a reasonable opportunity to present their case before any adverse action is taken against them. However, in this instance, the appellant was deprived of this fundamental right. 4. That it is settled principle that order once implemented cannot be withdrawn later on. Reliance is placed on PLD 1969 SC 407, PLD 1991 SC 973, 2003 PLC (CS) 1262. 2011 PLC (C.S)331 ,2010 PLC(C.S)1427 ,2006 SCMR 678,2023 SCMR 1703 That Maxim Locus Poenitentiae (Power to recall earlier order) would not be attracted when earlier order had created a vested right. Reliance is Placed in 2016 TD (Service) 401 hence the impugned notices are contrary to the principle of locus poenitentiae because it is well-settled law that once a right is created by extending benefit to employee, the same cannot be taken away on mere assumption,

supposition, whims and fancy of any executive functionary. Such right, once vested, could not be destroyed or withdrawn as legal bar would come into play under the doctrine of locus poenitentiae.

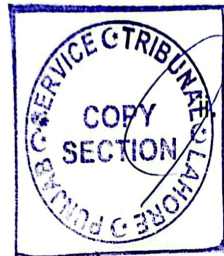
- V. It is pertinent to note that the Honorable Lahore High Court, in writ petition 14949/2012, has previously declared sub-rule (iv) of rule 09 of the Promotion Policy 2002 as unconstitutional, deeming it inconsistent with the spirit of Article 8 of the Constitution of Pakistan. This legal precedent underscores the importance of upholding constitutional principles in matters of promotion and employment.
- VI. That entire service record of the appellant is clean, blotless, and admirable and not a single major punishment existing in the service record of the appellant, the appellant always performed my official duties efficiently and diligently. The appellant always obeyed the orders of his Senior Officers and complied with orders/instructions issued by the Senior Officers. It proves my good conduct, behavior, competence; good reputation, honesty, effective supervision; monitoring, management and command Therefore, the allegations leveled against the are baseless.

VII. That the impugned punishment orders are wholly illegal, without jurisdiction, ab-initio void, arbitrary, against law and facts and the same is not sustainable in the eyes of law.

PRAYER: -

In view of the above submission, it is therefore respectfully prayed that:

i. The impugned order dated 25-03-2024 passed by respondent No. 02, demoting the appellant from Deputy District Account Officer to Assistant BS-, be set aside.



The said order be declared illegal, without jurisdiction, ab initio, void, arbitrary, discriminatory, mala fide, and in contravention of law and facts.

iii. It is further prayed that the operation of the impugned order may also be suspended till the final decision of the main petition.

J. Iqbal
...APPELLANT



Through

ALLAH NAWAZ KHOSA

Advocate High Court

CNIC No:32102-7363491-1

Cell No: 0333-6073636

Office No.33/A Queens Road, Lahore.

CERTIFICATE:

As per instructions, this is the first appeal in this Hon'ble Punjab Service Tribunal, Lahore against the impugned order .

Az
ADVOCATE

"SAVE TREES & PROTECT ENVIRONMENT"



042-99210101

GOVERNMENT OF THE PUNJAB
FINANCE DEPARTMENT

Dated: Lahore, the 25th March, 2024

ORDER

No.SO(B&E-II)3-9/2022-: Consequent, upon recommendation made by the Departmental Promotion Committee (DPC) in its meeting held on 10.01.2024 Mr. Javed Iqbal, presently posted as Deputy District Accounts Officer (BS-17), District Accounts Office, Faisalabad is hereby restored to his substantive post i.e. Accountant (BS-17), with immediate effect. Upon such demotion/restoration, he is hereby directed to report to Chief Inspector of Treasuries & Accounts, Punjab Lahore for further posting.

FINANCE SECRETARY

NO. & DATE EVEN

A copy is forwarded for information and necessary action to:

- 1) The Chief Inspector of Treasuries & Accounts, 118-C New Muslim Town, Lahore.
- 2) The Accountant General Punjab, Lahore.
- 3) The Deputy Secretary (Regulations), S&GAD.
- 4) The District Accounts Officer-I, Faisalabad
- 5) PSO to Finance Secretary, Govt. of the Punjab, Finance Department.
- 6) PS / PA to SSF (B&R), AFS (B) & DS(LA&T) Government of the Punjab, Finance Department
- 7) Officer concerned.

Javed Iqbal
25/03/2024
SECTION OFFICER (B&E-II)