JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

(W.P No.1518 of 2019)

Asghar Mehmood
Vs.
Ministry of Defence Production, Government of Pakistan & others

Date of hearing	:	27.02.2025.
Petitioners by	:	Mr. Umair Baloch, Advocate.
Respondents by	:	Ms. Azra Batool Kazmi, AAG and Adnan Mughal, Advocate.

J U D G M E N T

MUHAMMAD ASIF, J-. Through this petition, the petitioners seek reinstatement into service under the provisions of the Sacked Employees (Re-instatement) Act, 2010 (hereinafter referred to as **"the Re-instatement Act"**) by impugning the order dated 05.09.2018 and observation/recommendations dated 29.06.2016, passed by the respondents.

2. Learned counsel for the petitioners argued that the case of the petitioners falls within the scope of the Re-instatement Act and following its enactment, the petitioners approached the respondents to request reinstatement, but their request was denied; that the impugned order and observations/recommendations, passed by the respondents are arbitrary and lack merits. Lastly, he prayed for acceptance of this petition.

3. Learned AAG assisted by learned counsel for the respondents opposed the petition, arguing that the petitioners were employed as Casual Tailors in the year 1995 on terms and conditions that allowed for termination without notice, therefore, the Re-instatement Act, under the provisions of which the petitioners are seeking

reinstatement, does not apply to their case; that the petitioners never filed application as required under Section 3 of the Re-instatement Act and they also failed to approach both the respondents and the Review Board for Sacked Employees within the stipulated period. Lastly, prayed for the dismissal of the instant petition.

4. Heard. Record perused.

5. The present petition pertains to the Re-instatement Act, which was enacted to provide relief to the employees appointed between 1993 and 1996, and subsequently sacked.

6. It is unequivocally reflected from the record that petitioners were not regular employees; instead, they were hired as causal tailors in 1995 and their employment was terminated in 1997 due to decrease in production targets at the clothing factory. Besides, the petitioners did not approach the Review Board for Sacked Employees within the required timeframe, nor did they submit an application under section 3 of the Re-instatement Act, which stipulates that a dismissed/sacked employee must file an application within 90 days of the Act's enactment. Consequently, the petitioners could not meet the criteria for reinstatement.

7. Furthermore, it is pertinent to mention here that the Honourable Supreme Court of Pakistan has declared the Sacked Employees (Re-instatement) Act, 2010 *ultra vires* to the Constitution in its judgment dated 17.08.2021 in Civil Appeal No.491 of 2012. Relevant part whereof, reads as under:

> *"Therefore, in light of the discussion above, the Act of 2010 is hereby declared to be ultra vires of the Constitution. The effect of such declaration is that any/all the benefits accrued to the beneficiaries are to be ceased with immediate effect".*

8. Given the circumstances outlined above, and in light of the Honourable Supreme Court's declaration of the Act *ibid* as *ultra vires*, the petition does not merit consideration and is hereby dismissed.

(MUHAMMAD ASIF)
JUDGE

Announced in open court on 22.04.2025

JUDGE

Shoaib