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

Writ Petition No. 2141 of 2022

Malik Safdar Hussain
Versus
Federation of Pakistan, etc.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	08.06.2022	Mr. Hassan Raza pasha, Advocate for petitioner.

Through the instant writ-petition, petitioner (*Safdar Hussain, Inspector, Motorway Police*) impugns Notifications dated 17.05.2022 and 25.05.2022 issued by respondents 1 & 2 (*IG & DIG, NHA, Islamabad)*, whereby on completion of maximum deputation period in NH&MP and on disciplinary grounds, he was repatriated from NH&MP to parent department i.e. Sindh Police and was ordered to be relieved after necessary clearance.

2. Relevant facts, set-out in the petition, are that the petitioner while serving in Sindh Police inducted in NH&MP on deputation basis where he served for about 16 years; that respondent No. 7 filed a complaint against the petitioner on the allegations of harassment at workplace upon which respondent No. 3 issued statement of allegations on 08.03.2022 constituting Inquiry Committee by appointing respondent No. 4 as Chairperson; that the latter issued a call up notice to the petitioner on 21.03.2022 for his appearance before the Committee on 25.03.2022; that the petitioner submitted written defence to the charge-sheet and statement of allegations and requested for change of Inquiry Committee through a written application dated 27.03.2022; that the petitioner also submitted an application to respondent No. 4 for stoppage of inquiry proceedings followed by an application to respondent No. 3 for personal appearance; that the

respondents without deciding fate of his applications, on the basis of ex-parte inquiry report issued repatriation order with direction to relieve from the duties vide impugned notifications, hence instant writ petition.

3. According to the learned counsel, the proceedings of inquiry have been conducted in violation of due procedure as before proposing major penalty, no show cause notice was issued to the petitioner; that petitioner was also not afforded opportunity to join the inquiry proceedings; that the applications of the petitioner referred above were also not given due consideration before culmination of inquiry proceedings; that the petitioner at the verge of his retirement while the complaint of respondent No. 7, on the face of it, is result of malice and malafide, therefore, impugned notifications are liable to set aside.

4. Heard, record perused.

5. The repatriation of the petitioner had been on account of completion of maximum deputation period in NH&MP and on disciplinary grounds. According to petitioner's own stance, he had been on deputation with the NH&MP for more than 10 years, therefore, had already exhausted maximum deputation period. It is settled law that the period of deputation can at the best be equated to that of an expression of maximum period which can be curtailed or extended by the Competent Authority and no legal or vested rights whatsoever are available to a deputationist qua tenure of deputation. Reliance is placed on ***Prof. M. Ashraf Khan Niazi v. Chairman, Board of Governors, Allama Iqbal Medical College/Jinnah Hospital, Lahore and 2 others (2003 PLC (C.S.) 243) and S. Masood Abbas Rizvi v Federation of Pakistan and others (2014 SCMR 799***).

6. Furthermore, according to the ratio set in the case of ***"Dr. Shafi-ur-Rehman Afridi v. C.D.A. Islamabad through Chairman and others" (2010 SCMR 378)*** a deputationist, in absence of any specific provision of law, even cannot ask to serve the total period of deputation in the borrowing agency. It has been further held that such civil servant can be repatriated by the Competent Authority in the interest of exigency of service as **and when so desired and such order of the competent authority cannot be questioned**.

7. It is also settled law that every civil servant is bound to serve anywhere within or outside the Province in any post under the Federal Government or any provincial government or local authority or Corporation or any other body set up or established by any such Government.

8. On the touchstone of the principle ibid, it is noticed that the petitioner had already exhausted maximum period of deputation while no legal or vested right is available to a deputationist, therefore, on this score the instant petition is not maintainable.

9. The objections upon the proceedings of the inquiry warrant probe and investigation, not permissible under constitutional jurisdiction while this Court by issuing direction to change the Inquiry Committee cannot assume role of the competent authority. Even otherwise, according to petitioner's own stance contained in Para-08, the inquiry has since been concluded and in terms of Section 6(1) of the Protection against Harassment of women at the Workplace Act, 2010 **('the Act of 2010')**, any party aggrieved by the decision of the Competent Authority on whom minor or major penalty is imposed may within thirty days of written communication of the decision prefer an appeal to an Ombudsman established under section 7 of the Act of 2010. Thus alternate efficacious remedy of appeal is also available to the petitioner.

10. In view of above, there exists no justification to put the respondents under notice and to proceed further with the instant writ petition which, *for reasons stated above*, is accordingly **dismissed in limine**.

(ARBAB MUHAMMAD TAHIR)
JUDGE

//*Kamran***//****