Form No: HCJD/C-121

JUDGEMENT SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD

JUDICIAL DEPARTMENT

Writ Petition No.2809 of 2023

Bashir Ahmed Qaisrani

Versus

Oil and Gas Development Company Limited and others

PETITIONER BY:	Mr. Sohail Akbar Chaudhry, Advocate
RESPONDENTS BY:	Mr. Khurram M. Hashmi, Advocate
DATE OF HEARING:	06.10.2026

AYYAZ SHAUKAT, J:- Through the instant petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 (the **"Constitution"**), the petitioner, a Deputy Chief Engineer (Civil) of Oil and Gas Development Company Limited (**"OGDCL"**), has assailed the office memorandum dated 18.07.2022, whereby the major penalty of reduction to a lower stage by one increment was imposed upon him, and the office memorandum dated 05.06.2023, whereby the Board of Directors of OGDCL (the **"Board"**) upheld that penalty in appeal.

2. The facts, in brief, are that OGDCL laid a flow-line from its Thal East-1 Well towards the Kadanwari facility in District Khairpur. The line was designed by a consultant of the Petroleum Engineering & Facilities Department **("PE&FD").** The civil works were supervised by Engineering Field Party-IV **("EFP-IV")**, in which the petitioner was serving as a reliever for the Party Chief. The line was completed on 26.06.2020 and buckled at four locations on 26.07.2020. Following two fact-finding exercises, charge sheets were issued to twelve officers. The petitioner was charged on 02.07.2021 with "slackness/sheer negligence", principally on the ground that the trench had not been dug to the designed depth. The Inquiry Committee, in its report dated 31.01.2022, found seven officers negligent. The petitioner was thereupon served with a show cause notice proposing his dismissal from

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service. Ultimately, vide office memorandum dated 18.07.2022, the penalty of reduction to a lower stage by one increment was imposed upon him and one other officer. His appeal was rejected by the Board, as communicated on 05.06.2023.

3. Learned counsel for the petitioner contends that the trench depth was revised with the knowledge of the petitioner's superiors; that the line buckled because it was operated beyond its design temperature; and that the Chairman of the Inquiry Committee had himself approved the revised cost estimates. The petitioner's principal grievance, however, is one of discrimination. It is submitted that, although seven officers were held responsible, only the petitioner and one Assistant Engineer were punished; that the penalty imposed upon the Assistant Engineer was reduced in appeal whereas that of the petitioner was maintained; and that neither the penalty order nor the appellate order discloses any reasons for the differential treatment. This, it is argued, offends Article 25 of the Constitution.

4. Conversely, learned counsel for the respondents contends that the proceedings were conducted under the OGDC Employees Service Regulations, 1994, and that the petitioner was served with a charge sheet and a show-cause notice, afforded a personal hearing and given a right of appeal. It is submitted that the measurement book of the petitioner's field party recorded an average trench depth of 4.75 feet against the designed depth of 8 feet; that the deviation was never approved; and that such technical questions of fact cannot be reopened in writ jurisdiction.

5. I have heard learned counsel for the parties and have perused the record with their assistance.

6. Much of the controversy raised in this petition is technical in nature. Whether the flow-line buckled on account of the shallow trench, or because the line was operated beyond its design temperature, is a matter for experts and was examined by the departmental forums. The present petition does not warrant reappraisal of that technical material in the exercise of constitutional jurisdiction. That finding is left undisturbed. The real grievance of the

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petitioner, however, lies elsewhere. It is that, having been found negligent along with others, he was singled out for harsher treatment than other officers placed in the same category of responsibility, without any reason being assigned. This grievance can be examined on the respondents' own record, beginning with the report of the Inquiry Committee.

7. The Inquiry Committee held that the negligence lay "mainly on the part of EFP-IV team right from Acting Manager to Asst. Engineer level". It placed three officers in the category of "Primary Responsibility towards unauthorized/unilateral change in design of pipeline", namely Mr. Asad Ali, Acting Manager Civil (South), the petitioner, and Mr. Hassan Waheed Baig, Assistant Engineer (Civil). Two field engineers of PE&FD were held primarily responsible for failing to oversee execution, while two senior officers of PE&FD were held to bear secondary responsibility. The Committee "did not find any mala fide intention on the part of any individual employee". It attributed the failure largely to "OGDCL's outdated systems and practices" and to "various project stakeholders working in silos." It did not recommend any particular penalty for any officer.

8. A comparison of the findings recorded against the three officers in this category shows that the role of the petitioner was not treated as graver than that of the other two. Against the petitioner, the Committee found that he "did not question the change in trench depth in second tender". Against the Acting Manager, his own superior, it found that "[t]he change in scope of work was endorsed by him as acting manager and he neither questioned nor informed concern management about change in BOQ in the case file." Against the Assistant Engineer, it found that he "had prepared the BOQ in both tenders" and had failed to log the reason for the change. These findings concern the same unauthorized change in trench depth, although the officers performed different functions. The Acting Manager had himself endorsed the change. No basis for treating the petitioner's lapse as graver is apparent from the findings reproduced above.

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9. The manner in which the report was acted upon is evident from the record. By a single office memorandum dated 18.07.2022, the same penalty was imposed upon the petitioner and Mr. Hassan Waheed Baig only. Nothing on record shows that any of the other five officers was punished. The petitioner pleaded so in paragraph 11 of the petition, and the respondents have not controverted that assertion. In appeal, the office memorandum dated 25.05.2023 issued to Mr. Baig refers to Board Secretariat letter No.Board-01-06/256th/2405 dated 28.04.2023 and records that his penalty was reduced to stoppage of increment for one year. He was also granted a premature increment on promotion with effect from 01.07.2022. The office memorandum dated 05.06.2023 issued to the petitioner refers to the very same letter, bearing the same number and date, and states that the Board "resolved to up-hold the penalty already imposed". The same appellate authority thus granted relief to one officer while declining it to the other, as communicated through separate memoranda referring to the same Board Secretariat letter. Neither memorandum discloses any reason for the differential treatment, nor has the Board's resolution been produced.

10. Article 25 of the Constitution does not cease to operate once a person is found guilty of misconduct. The guarantee of equal protection of the law does not require that all persons be treated alike in all circumstances; it requires that persons similarly placed be treated alike, and that any differentiation rest upon a reasonable and intelligible basis (*I.A. Sharwani v. Government of Pakistan*, 1991 SCMR 1041). Those found guilty of the same lapse must be treated alike in punishment, unless a reason for the difference exists and is recorded. This principle was affirmed in *Muhammad Yaseen v. Secretary, Ministry of Interior and Narcotics Control and another* (2023 SCMR 1691), wherein, after a joint inquiry, the petitioner was dismissed from service whereas the others were awarded minor penalties. The Hon'ble Supreme Court held as under:

> *"Article 25(1) of the Constitution ordains defiance of discrimination. However, by dismissing the petitioner from service while awarding minor penalties to the other officials, the petitioner has been*

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> *discriminated against and the learned Service Tribunal did not take into consideration this aspect of the matter."*

A similar view was taken in *National Bank of Pakistan v. Roz-ud-Din and another* (2025 SCMR 160), wherein two officers facing similar charges were downgraded by one step whereas the third was dismissed. The august Supreme Court, refusing leave to appeal, upheld the finding of the High Court that "no reason whatsoever has been assigned to single out the respondent Roz-ud-Din ... which amounts to clear discrimination", and itself held that the penalty of dismissal was "not only harsh but also disproportionate to the allegations/charge, besides being discriminatory". The Supreme Court of India has likewise recognised the principle of parity in disciplinary punishment. In *Man Singh v. State of Haryana and others* ((2008) 12 SCC 331), the appellate authority having exonerated one co-delinquent, maintained the punishment of the other, which was held to be discriminatory. In Rajendra Yadav v. State of M.P. and others ((2013) 3 SCC 73), it was held that "[p]arity among co-delinquents has also to be maintained when punishment is being imposed."

11. The petitioner's case falls squarely within these principles. He and Mr. Baig were charged with the same lapse, placed in the same category, punished by the same order, and the decisions on their appeals were communicated with reference to the same Board Secretariat letter. One obtained relief and the other did not. The Acting Manager, placed in the same category, does not appear to have been punished at all. It may be said that the petitioner, being senior to Mr. Baig, owed a greater duty of care. But no such reason is disclosed in the appellate memorandum or the record produced before this Court, and this Court cannot supply one in its stead. The argument also fails on its own terms, since the Acting Manager, who was senior to the petitioner and who endorsed the change, was spared. The respondents' own comments add to the inconsistency. They state that "all relevant departments, including the Petitioner's own department" were responsible, and that verification of the measurement book "was the primary responsibility of the FGCP", a team the Inquiry Committee cleared. These observations do not

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absolve the petitioner of negligence, but reinforce the need to explain why he received a harsher penalty than Mr. Baig.

12. The appellate order is also vitiated for want of reasons. Section 24-A of the General Clauses Act, 1897 requires an authority to act reasonably, fairly and justly and, so far as necessary or appropriate, to give reasons for its order. In *Messrs Airport Support Services v. The Airport Manager, Quaid-e-Azam International Airport, Karachi and others* (1998 SCMR 2268), the Hon'ble Supreme Court held that the order "so far as necessary or appropriate would reflect reasons for its making or issuance". In *Junaid Wazir v. Superintendent of Police, PRU/Dolphin Police, Lahore and others* (2024 SCMR 181), it was held that the reasons of a departmental authority "should be amply well-defined, just, right and understandable". The obligation to furnish reasons, so as to manifest that the authority has applied its mind to the matter, was likewise emphasised by the Supreme Court in *Mollah Ejahar Ali v. Government of East Pakistan* (PLD 1970 SC 173). Reasons were all the more necessary here, where the Board had granted relief in one appeal arising from the same inquiry while maintaining the penalty in the other.

13. The proportionality of the penalty must also be examined in the context of the unexplained differential treatment. The Committee found negligence, not dishonesty, and attributed the failure to the system as much as to any individual. In *Secretary to Government of the Punjab, Food Department, Lahore v. Javed Iqbal and others* (2006 SCMR 1120), the Hon'ble Supreme Court held that "such punishment should be awarded which commensurate with the magnitude of the guilt". In *Faisal Ali v. District Police Officer, Gujrat and another* (2025 SCMR 92), it reiterated that the Court may interfere where the punishment is "unreasonable, disproportionate, or against the law." Proportionality must be assessed with reference to the gravity of the lapse, the officer's role and the treatment of other officers whose misconduct and material circumstances are comparable. Measured thus, the penalty maintained against the petitioner cannot stand.

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14. Ordinarily, this Court would remit the matter to the competent authority, but in the present case a remand would serve no useful purpose. The Board has itself reduced Mr. Baig's penalty to stoppage of increment for one year in respect of the same lapse. On the comparison of their roles set out above, no material distinction justifying the petitioner's harsher treatment has been disclosed. The respondents have not pointed to anything on record that would warrant a harsher penalty for the petitioner.

15. For the foregoing reasons, this petition is **allowed** in the following terms:

(i) The office memorandum dated 05.06.2023 is set aside.

(ii) The office memorandum dated 18.07.2022 is modified to the extent of the petitioner, and the penalty imposed upon him is converted into stoppage of increment for a period of one year with effect from 23.06.2022.

(iii) The respondents shall re-fix the petitioner's pay and pay the resulting arrears, if any within sixty days of receipt of a certified copy of this judgment, together with any consequential benefits admissible upon substitution of the penalty, in accordance with the applicable Regulations.

(iv) The finding of negligence against the petitioner is not disturbed.

(AYYAZ SHAUKAT)
JUDGE

Announced in open Court on **26.10.2026.**

JUDGE

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