JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT,
ISLAMABAD

W.P. NO. 522 OF 2025

PARVAIZ SALEH

VS

THE FEDERATION OF PAKISTAN THROUGH SECRETARY ESTABLISHMENT DIVISION & ANOTHER

Petitioner by : Syed Qamar Hussain Shah Sabzwari, Advocate.

Respondents by : Raja Zamir ud Din Ahmed, AAG.

Date of hearing : 15.04.2025

MUHAMMAD AZAM KHAN, J.

1. Through the instant Writ Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 (hereinafter referred to as the **"Constitution"**), the Petitioner [Parvaiz Saleh] seeks acceptance of the instant Writ Petition and declare that the actions and omissions of the Respondents in failing to reinstate the Petitioner are ultra vires to the Constitution, illegal, unlawful, arbitrary, perverse, and void ab initio, as they are in direct violation of Articles 4, 9, 10-A, 14, 25, and 27 of the Constitution. The Petitioner further prays that this Honorable Court may be pleased to direct the Respondents to reinstate the Petitioner into service in accordance with the provisions of the Sacked Employees (Re-instatement) Act, 2010 **("SERA 2010")**, as well as the principles laid down by the superior Courts, and to award the Petitioner back benefits from 17.02.1997 until the date of his superannuation.

2. The brief facts of the case as per the Memo of Petition are that the Petitioner was appointed as Chairman of the Prime Minister Literacy Commission on 08.08.1995 in Grade 22 for a three-year contract and later also as Special Assistant to the Prime Minister on 01.08.1996. The Petitioner was terminated from his services on 05.11.1996, with the dismissal of the PPP regime, but reinstated on 13.11.1996 by the Caretaker Government. After the 1997 elections, his role as Special Assistant was terminated on 17.02.1997, though he continued as Chairman until his removal on 25.08.1997 without notice. His pay slip dated 05.08.1998

confirmed that he remained in service until then. On 08.10.2010, the SERA 2010, was enacted and passed by the Government of Pakistan. He applied for reinstatement on 09.12.2010, but the Establishment and Education Secretaries failed to act, with the latter stating the Commission had been dissolved in 2001 and the Establishment Division was now the competent authority. After prolonged inaction, he filed Writ Petition No.935-S/2011, which was disposed of with certain directions to the Ministry of Education, but no steps were taken. A follow-up petition (Crl. Original No.44-W/2013) advised him to approach the Establishment Division again. Despite persistent efforts, his grievance remains unresolved, leading to the current Petition.

3. The learned counsel for the Petitioner argued that despite clear directions from the Islamabad High Court vide Order dated 26.09.2012 and the Supreme Court's Order dated 17.12.2021, as well as recommendations by the National Assembly's Special Committee on Sacked Employees dated 27.10.2022, the Petitioner has not been reinstated. He emphasized that the Petitioner is entitled to reinstatement and benefits under the Sacked Employees Reinstatement Act, 2010, yet his case remains unaddressed, unlike several others who have been reinstated in the Ministry of Education and other departments. It is contended that the Petitioner's fundamental rights under Article 4 of the Constitution have been violated, and he has faced unjust discrimination. The Respondents' failure to comply with the Court orders and their arbitrary and unlawful conduct reflect *malafide* intent and a denial of justice, fair play, and equity. The Petitioner, having no alternative remedy, seeks this Court's intervention under its Constitutional Jurisdiction to redress his longstanding grievance.

4. The learned Assistant Attorney General argued that the Petitioner was appointed as Chairman, Prime Minister's Literacy Commission (BS-22) w.e.f. 08.08.1995 for three years; that the Petitioner was also appointed as Special Assistant to the Prime Minister (SAPM) with the status of Minister of State additionally and held the portfolio of SAPM from 01.08.1996 to 12.02.1997; that the Petitioner was allowed to continue to hold charge of the Office of the Chairman Literacy Commission whereas he ceased to hold the office of SAPM on 17.02.1997; that being a political office holder, his claim for reinstatement into government service is not covered under the SERA 2010; that the Petitioner was

holding the charge of political office as SAPM w.e.f. 01.08.1996, whereas the defunct SERA 2010 provided relief to those employees whose services were terminated from government w.e.f. 01.11.1996 to 12.10.1999. That in compliance to the judgment in Crl. Original No.44-W/2013 filed by the Petitioner in this Court, his case was considered by the competent authority and the request of the Petitioner was regretted and disposed of being not tenable under the law; that the august Supreme Court of Pakistan, vide its Judgment dated 17.08.2021, declared the SERA 2010 as *ultra vires* to the Constitution and also ceased all/any benefit accrued to the beneficiaries with immediate effect; that the Establishment Division filed a review petition but the apex Court has upheld its Judgment dated 17.08.2021 vide its Judgment dated 17.12.2021, however, after converting the review proceedings filed under Article 184(3) read with Article 187 of the Constitution, the august Supreme Court of Pakistan granted conditional relief to the beneficiary employees by restoring their services on the same terms and conditions applicable to them at the time of their initial appointments i.e. 1.11.1996 to 12.10.1999.

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

6. The Petitioner filed Writ Petition No. 935 of 2011, claiming relief from Respondents to be reinstated in his Ministry with three years back benefits under the Sacked Employees (Reinstatement) Act, 2010, in which directions were issued by the then Chief Justice to Ministry of Education, to process the case of the Petitioner and decide the same within two months vide Order dated 26.09.2012. The grievance was not redressed and ultimately the Petitioner filed a Contempt Petition i.e. Crl. Original No. 44-W of 2013, the court then directed the Petitioner to approach the Secretary, Establishment Division for redressal of his grievance. Vide Letter dated 23.10.2014, the request of the Petitioner was regretted on the ground that the Petitioner was appointed as Chairman, Prime Minister Literacy Commission (PMLC) (BS-22) under the Ministry of Education (defunct) with effect from 08.08.1995, however, following his appointment as SAPM, with the status of Minister of State, he continued to hold charge of the Office of the Chairman. He seized to hold the office of the SAPM on 17.02.1997 being a political appointee/political office holder as SAPM w.e.f. 01.08.1996 and his claim

for reinstatement into Government service is not covered under the Sacked Employees (Reinstatement) Act, 2010.

7. The august Supreme Court of Pakistan vide its Judgment dated 17.08.2021, declared the Sacked Employees (Reinstatement) Act, 2010 as *ultra vires* to the Constitution and also ceased all/any benefit accrued to the beneficiaries with immediate effect. The apex Court in the Review Petition granted conditional relief to the beneficiary employees by restoring their services on the same terms and conditions applicable to them at the time of their initial appointments. The Petitioner's case is different from those employees who got relief through the Review Petition, as he was not reinstated and was not in service at that time. Since the Act ibid has been declared as *ultra vires* to the Constitution, hence, no relief can be given to the Petitioner. Even otherwise, the Petitioner's appointment was that of a political office holder, having been appointed as SAPM on 01.08.1996.

8. For the foregoing reasons, the instant Petition, being misconceived and devoid of any merits is hereby **dismissed**.

(MUHAMMAD AZAM KHAN)
JUDGE

Announced in the Open Court on this _____ day of April, 2025.

JUDGE

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