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SINDH ORDINANCE NO.IX OF 2000

THE REMOVAL FROM SERVICE (SPECIAL POWERS) SINDH ORDINANCE, 2000

CONTENTS

Preamble

Sections

1. Short title, extent commencement and application.
2. Definitions.
3. Removal, Suspension of certain person in Government or corporation service, etc.
4. Suspension.
5. Power to appoint Inquiry Committees.
6. Powers of Inquiry Committee.
7. Procedure to be followed by the Inquiry Committee.
8. Order to be passed upon a finding.
9. Representation and review.
10. Appeal.
11. Ordinance to override other laws.
12. Proceedings under this Ordinance.
13. Pending proceedings to continue.
14. Pensionary of other benefits.
15. Power to make rules.
16. Removal of difficulties.

Sindh Ordinance No.IX of 2000

THE REMOVAL FROM SERVICE (SPECIAL POWERS) SINDH ORDINANCE, 2000

[30th August, 2000]

Preamble

An Ordinance to provide for dismissal, removal, compulsory retirement from service and reduction to lower post or pay scale of certain persons from Government service and corporation service.

WHEREAS in view of prevailing circumstances it is expedient and necessary and in the public interest and further for good governance to provide for measures, inter-alia, dismissal and removal of certain persons from Government service and corporation service as hereinafter stated.

AND WHEREAS it is necessary to provide for speedy disposal of such cases and for matters connected therewith or ancillary thereto.

AND WHEREAS the Provincial Assembly stands suspended in pursuance of the Proclamation of Emergency of the fourteenth day of October, 1999, and the Provisional Constitution Order No.1 of 1999.

AND WHEREAS the Governor of Sindh is satisfied that circumstances exist which render it necessary to take immediate action.

NOW, THEREFORE, in pursuance of the Proclamation of Emergency of the fourteenth day of October, 1999 and the Provincial Constitution Order No.1 of 1999, read with the Provisional Constitution (Amendment) Order No.9 of 1999, instructions of the Chief Executive and in exercise of the powers enabling him in that behalf the Governor of Sindh is pleased to make and promulgate the following Ordinance: -

Short title extent Commencement and application.

1. (1) This Ordinance may be called the Removal from Service (Special Powers) Sindh Ordinance, 2000.

(2) It extends to the whole of Sindh.

(3) It shall come into force at once.

(4) It shall apply to persons in Government service and corporation service.

2. In this Ordinance, unless there is anything repugnant in the subject or context— **Definitions.**

(a) "competent authority" means, the Governor and where, in relation to any person or class of persons, the Governor authorizes any officer or authority, not being inferior in rank to the appointing authority prescribed for the post held by the person against whom action is proposed to be taken, to exercise the powers of competent authority under this Ordinance, that officer or authority, and, in relation to an employee of a Court or Tribunal functioning under the Provincial Government, the appointing authority or the Chairman or Presiding Officer of the Court or the Tribunal;

(b) "Government" means the Government of Sindh;

(c) "misconduct" includes conduct prejudicial to good order or service discipline or conduct unbecoming of an officer and a gentleman or involvement or participation for gain either directly or indirectly in industry, trade or speculative transactions or abuse or misuse of the official position to gain undue advantage or assumption of financial or other obligations to private institutions or persons as may cause embarrassment in the performance of official duties or functions;

(d) "person in corporation service" means every person in the employment of a corporation, corporate body, authority, statutory body or other organizations or institutions set up, established, owned, managed or controlled by Government, or by or under any law for the time being in force or a body or organization in which Government has a controlling share or interest and includes the Chairman and the Managing Director, and the holder of any other office therein, and.

(e) "person in Government service" includes every person who is a member of a Provincial Service or of a Civil Service of the Province or who holds a civil post in connection with the affairs of the Province or any employee serving in any Court or Tribunal set up or established by government but does not include a judge of the Supreme Court or of a High Court or Federal Shariat Court or any Court subordinate to the High Court or any employee thereof.

Removal, Suspension of certain person in Government or corporation service, etc.

3. (1) Where, in the opinion of the competent authority, a person in Government or corporation service, is—

(a) inefficient or has ceased to be efficient for any reason, or

(b) guilty of misconduct, or

(c) corrupt, or may reasonably be considered as corrupt, because

(i) he, or any of his dependents or any other person, through him or on his behalf, is in possession of pecuniary sources or of property, for which he cannot reasonably account for and which are disproportionate to his known resources of income; or

(ii) he has assumed a style of living beyond his known sources of income; or

(iii) he has a persistent reputation of being corrupt; or

(d) engaged, or is reasonably believed to be engaged, in subversive activities, and his retention in service is prejudicial to national security or he is guilty of disclosure of official secrets to any unauthorized person; or

(e) found to have been appointed on grounds in violation of law and the relevant rules, the competent authority, after inquiry by the Committee constituted under section 5, may notwithstanding anything contained in any law or the terms and conditions of service of such person, by order in the official Gazette dismiss or remove such person from service, compulsorily retire from service or reduce him to lower post or pay scale, or impose one or more minor penalties as prescribed in the Sindh Civil Servants (Efficiency and Discipline) Rules, 1973.

Provided that no action under this section shall be taken in respect of any such person except after informing him of the reasons thereof and giving him an opportunity to show cause within fifteen days as to why such action should not be taken against him.

(2) The dismissal or removal or premature retirement from service or reduction to lower post or pay scale of a person under sub-section (1) shall not absolve such person from liability to any punishment to which he may be liable from an offence under any law committed by him while in service.

Suspension.

4. A person against whom action is proposed to be taken under sub-section (1) of section 3 may be placed under suspension with immediate effect if, in the opinion of the competent authority, suspension is necessary or expedient.

Provided that the competent authority, may in an appropriate case, for reasons to be recorded in writing, instead of placing such person under suspension, require him to proceed on such leave as may be admissible to him from such date as may be specified by the competent authority.

Power to appoint Inquiry Committee.

5. The competent authority may constitute one or more Inquiry Committees to scrutinize the conduct of a person in Government service or a person in corporation service who is alleged to have committed any of the acts or omissions

specified in section 3, and record a finding thereon after providing reasonable opportunity of haring to such person, and make within thirty days, recommendations as to punishment or other appropriate action.

Provided that such opportunity of hearing shall not be given where the Committee is satisfied that in the interest of the security of Pakistan or part thereof, it is not expedient to give such opportunity.

Powers of Inquiry Committee.

6. The Inquiry Committee shall have power-

(a) to summon an enforce attendance of any person and examine him on oath;

(b) to require the discovery and production of any document;

(c) to receive evidence on affidavits, and

(d) to record evidence.

Procedure to be followed by the Inquiry Committee.

7. The Inquiry Committee shall, subject to any rules made under this Ordinance, have power to regulate its own procedure, including the fixing of place and time of its sitting and deciding whether to sit in public or in private, and in the case of corporate committee, to act notwithstanding the temporary absence of any of its members.

Order to be passed upon a finding.

8. Every finding recorded by the Inquiry Committee under section 5, shall, with the recommendation provided for in that section, be submitted to the competent authority and the competent authority may pass such orders thereon as it may deem proper in accordance of the provisions of this Ordinance.

Representation and review.

9. (1) A person who ha been dismissed or removed or compulsorily retired from service or reduced to lower post or pay scale or against whom any order has been made under section 3, by the competent authority, may, within fifteen days from the date of communication of the order prefer a representation to the Governor or such officer or authority as the Governor may designate:

Provided that where the order has been made by the Governor such person may, within the aforesaid period, submit a review petition to the Governor.

2. The Governor or any Officer or authority, as may be designated for the purpose by the Governor, may, on consideration of the representation, review petition and any other relevant material, confirm, set aside, vary or modify the order in respect of which such representation or review petition is made within sixty days thereof.

Appeal.

10. Notwithstanding anything contained in any other law for the time being in force, any person aggrieved by any final order under section 9, may, within thirty days of the order, prefer an appeal to the Sindh Service Tribunal established under the Sindh Service Tribunals Act, 1973.

Ordinance to override other laws.

11. The provisions of this Ordinance shall have effect notwithstanding anything to the contrary contained in the Sindh Civil Servants Act, 1973 and the rules made there under and any other law for time being in force.

Proceedings under this Ordinance.

12. All proceedings initiated on the commencement of this Ordinance in respect of matters and persons in service provided for in this Ordinance shall be governed by the Provisions of this Ordinance and rules made thereunder.

Pending proceedings to continue.

13. For the removal of doubts, it is hereby provided that all proceedings pending immediately before the commencement of this Ordinance against any person whether in Government service or corporation service under the Sindh Civil Servants Act, 1973 and rules made thereunder, or any other law or rules, shall continue under the said laws and rules, and as provided thereunder.

Pensionary or other benefits.

14. Notwithstanding anything contained in this Ordinance the payment of pension or other benefits to a person retired or reduced to a lower post or pay scale under this Ordinance shall, if admissible, be regulated in accordance with the law for the time being in force relating thereto.

Power to make rules.

15. Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Ordinance.

Removal of difficulties.

16. If any difficulty arises in giving effect to any of the provisions of this Ordinance, the Governor may make such order, not inconsistent with the provisions of this Ordinance, as may appear to him to be necessary for the purpose of removing the difficulty.