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SINDH ORDINANCE NO. II OF 2005.

THE REMOVAL FROM SERVICE (SPECIAL POWERS) (AMENDMENT) ORDINANCE, 2005.

[February 18, 2005]

An Ordinance to amend Removal from Service (Special Powers) Sindh, Ordinance, 2000.

Preamble.

WHEREAS it is expedient to amend the Removal from Service (Special Powers) Sindh Ordinance, 2000 in the manner hereinafter appearing;

AND WHEREAS the Provincial Assembly is not in session and the Governor of Sindh is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 128 of the Constitution of the Islamic Republic of Pakistan, the Governor of Sindh is pleased to make and promulgate the following Ordinance:-

1. **Short title and commencement.**

(1) This Ordinance may be called the Removal from Service (Special Powers) (Amendment) Sindh Ordinance, 2005.

(2) It shall be come into force at once and be deemed to have taken effect on and from 25th January, 2005.

2. **Amendment of section 2 of Sindh Ordinance No.IX of 2002.**

In the Removal from Service (Special Powers) Sindh Ordinance, 2000 hereinafter referred to as the said Ordinance, in section 2, for the word "Governor", the words "Chief Minister" shall be substituted.

3. **Amendment of section 3 of Sindh Ordinance No. IX of 2002.**

In the said Ordinance, in section 3 -

(i) in sub-section (1), for clause (e), the following shall be substituted:-

"(e) found to have been appointed on extraneous grounds in violation of law and the relevant rules, the competent authority, after inquiry by an Inquiry Officer or the Inquiry Committee appointed under section 5, may, notwithstanding anything contained in any law or the terms and conditions of service of such person, by order in writing

dismiss or remove such person from service, compulsory retire from service, or reduce him to lower post or pay scale, or recover from pay, pension or any other amount payable to him, the whole or a part of any pecuniary loss caused to the organization in which he was employed or impose one or more minor penalties as prescribed in the Sindh Civil Servants (Efficiency and Discipline) Rules, 1973.".

(ii) In sub-section (2), in the second proviso for the words "or removed from service or reduce in rank on the ground of conduct which has led to a sentence of fine or of imprisonment", the words, brackets and figures "under clause (1) of sub-section (20 of section 3-A" shall be substituted.

4. In the said Ordinance, after section 3, the following new section shall be inserted:- **Insertion of section 3-A in Sindh Ordinance No. IX of 2000.**

"3-A(1) Where a person in Government service or in Corporation Service on conviction by a court of law is sentenced to imprisonment or fine, the competent authority shall examine the facts and the grounds on which the order convicting such person was passed by a court of law.

(2) Where on examination, the competent authority finds that order of imprisonment or fine is based on-

(a) the established charges of corruption or moral turpitude it shall pass order of dismissal from service of the delinquent person in Government service or in corporation service to be effective from the date of his conviction by a court of law; and

(b) the charges other than corruption or moral turpitude it may, in the light of the facts and circumstances of the case, decide as to whether it is a fit case for taking departmental action under this Ordinance and if it so decides it may, subject to the provisions of sub-section (2) of section 3, impose any

penalty authorized by this Ordinance as it may deem fit in the circumstances of the case.".

5. In the said Ordinance, for section 9, the following shall be substituted:- **Amendment of section 9 of the Sindh Ordinance No. IX of 2000.**

"9(1) A person on whom a penalty is imposed under section 3, may, within fifteen days from the date of communication of the order prefer a representation to the Chief Minister or such officer or authority as the Chief Minister ay designate:

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

(2) The Chief Minister or an Officer or authority, as may be designated for the purpose by the Chief Minister may, on receipt of the representation or, as the case may be, review petition call for the record and after perusal of such record and if considered necessary hearing the person concerned and the representative of the competent authority make such order as deem fit.

6. In the said Ordinance, in section 10, for the full stop at the end, a colon shall be substituted and thereafter the following proviso shall be added:- **Amendment of section 10 of Sindh Ordinance No. IX of 2000.**

"Provided that where a representation has been preferred under section 9 but no decision has been received by, or communicated to, the applicant or, as the case may be, petitioner, within a period of sixty days of its submission to the prescribed authority, he may prefer appeal to the Sindh Service Tribunal within thirty days of the expiry of the aforesaid period.".

7. In the said Ordinance, after section 14, the following new sections shall be inserted:- **Insertion of sections 14-A and 14-B in Sindh Ordinance No. IX of 2000.**

"14-A. No suit, prosecution or other legal proceedings shall lie against the competent authority or an officer or authority or an officer or authority

authorized by it for anything which is in good faith done or intended to be done under this Ordinance or the rules, instructions or directions made or issued thereunder.

"14-B. Save a provided under this Ordinance, no order made or proceedings taken under this ordinance, or the rules made thereunder by the competent authority or any officer or authority authorized by it shall be called in question in any Court and no injection shall be granted by any Court in respect of any decision made or proceedings taken in pursuance of any power conferred by, or under, this Ordinance, or the rules made thereunder.".