

**The
Removal from Service (Special Powers)
Ordinance, 2000**

XVII OF 2000

27th May, 2000

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 goods governance to provide for measures; inter alia, dismissal, removal etc., 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 National Assembly and the Senate stand 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 President 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 Provisional Constitution Order No. 1 of 1999, as well as Order No. 9 of 1999, and in exercise of all powers enabling him in that behalf, the President of Constitution of Islamic Republic of Pakistan is pleased to make and promulgate the following Ordinance :-

1. Short title, extent, commencement and application. - (1) This Ordinance may be called the Removal from Service (Special Powers) Ordinance, 2000.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

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

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

(a) ¹[Omitted]

(aa) **“competent authority”** means, the ²[Prime Minister] and where, in relation to any person or class of persons, the ²[Prime Minister] authorize 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 Federal Government, the appointing authority or the Chairman or Presiding Officer of the Court or the Tribunal.

(b) **“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 such as may cause embarrassment in the performance of official duties or functions.

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

(d) **“person in Government service”** includes every person who is a member of an All-Pakistan Service or of a Civil Service of the Federation or who holds a civil post in connection with the affairs of the Federation or any employee serving in any Court or Tribunal set up or established

by the Federal 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.

Legal Amendments

1. Omitted by Ordi. II of 2003 . earlier this clause was as under : “Prime Minister” means the Prime Minister of the Islamic Republic of Pakistan.
2. Substituted by Ordi. II of 2003. for the word Chief Executive

3. [Dismissal, removal and compulsory retirement, etc.] of certain persons in Government or corporation service, etc.- (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 [is guilty of being habitually absent from duty without prior approval of leave, 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 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 sources 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

(iv) he has entered into plea bargain under any law for the time being in force and has returned the assets or gains acquired through corruption or corrupt practices voluntarily; 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 or promoted on extraneous 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 writing 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 Government Servants (Efficiency & Discipline) Rules, 1973, made under Section 25 of Civil Servants Act, 1973:

(2) Before passing an order under sub-section (1) the competent authority shall: (a) by order in writing, inform the accused of the action proposed to be taken with regards to him and the grounds of the action; and (b) give him a reasonable opportunity of showing cause against that action within seven days or within such extended period as the competent authority may determine.

Provided that no such opportunity shall be given where the competent authority is satisfied that in the interest of security of Pakistan or any part thereof it is not expedient to give such opportunity.

Provided further that no such opportunity shall be given where the accused is dismissed or removed from service or reduced in rank on the ground of conduct, which has led to a sentence of fine or of imprisonment or where the competent authority is satisfied for reasons to be recorded in writing that it is not reasonably practicable to give the accused an opportunity of showing cause.

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 for an offence under any law committed by him while in service.

Court Judgments

Double jeopardy:— Competent Authority must give reasons for shorter procedure—No body can be vexed twice—No show-cause notice served—Impugned order set-aside appeal allowed the authorities however allowed to initiate fresh proceedings. **PLJ 2004 Tr.C (Services) 1**

Enquiry proceedings conducted by Anti-Corruption Establishment and enquiry ordered by competent Authority—Effect—Earlier Enquiry Proceedings conducted by Anti-Corruption Establishment against petitioner were independent from enquiry ordered by Competent Authority under S. 3 of Punjab Removal from Service (Special powers) Ordinance 2000, there could be no double jeopardy in instant case. **P L J 2004 SC 181**

Constitutional petition - Show-cause notice was issued to petitioners stating that their appointments were made on extraneous considerations - Petitioners filed their replies contending that their appointments were duly made under R. 5 of Public Service Commission (Functions) Rules, 1978 - Petitioners without waiting for decision on their replies by Competent Authority filed Constitutional petitions, which were dismissed by High Court - Contention of petitioner was that their removal from service could be made only after holding elaborate enquiry by Enquiry Officer/Committee, whereas show-cause notice had been issued to them without appointment of Enquiry Officer/Committee--- Before passing the final order of removal from service, appointment of Enquiry Officer or Enquiry Committee was necessary under the Punjab Removal from Service

(Special Powers) Ordinance, 2000 - Disputed show-cause notice was still at preliminary stage - Competent Authority after considering petitioners' replies, if came to the conclusion that it was a case of taking further proceedings under the Ordinance, then it would be required to constitute an Enquiry Committee or appoint an Enquiry Officer - Constitutional petition had rightly been held to be premature and dismissed as such - Impugned Judgment was not suffering from any legal infirmity or illegality warranting interference by Supreme Court - Petitions for leave to appeal were dismissed with observations that if any order adverse to petitioners was passed either on merits or against the provisions of the Ordinance, they might file appeals before the Punjab Service Tribunal in accordance with law. **2002 SCMR 805**

4. Suspension. - 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.

5. Power to appoint an Inquiry officer or Inquiry Committee: (1) Subject to the provisions of sub-section (2), the competent authority shall before passing an order under section 3, appoint an Inquiry Officer or Inquiry Committee 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 facts or omissions specified in Section 3.

The Inquiry Officer, or, as the case may be the Inquiry Committee shall

(a) communicate to the accused the charges and statement of allegations specified in the order of inquiry passed by the competent authority

(b) require the accused within seven days from the day the charge is communicated to him to put in a written defence

(c) enquire into the charge and may examine such oral or documentary evidence in support of the charge or in defence of the accused as may be considered necessary and the accused shall be entitled to cross-examine the witnesses against him and

(d) hear the case from day-to-day and no adjournment shall be given except for special reasons to be recorded in writing and intimated to the competent authority.

(2) Where the Inquiry Officer or as the case may be, the Inquiry Committee is satisfied that the accused is hampering or attempting to hamper, the progress of the inquiry he or it shall record a finding to that effect and proceed to complete the inquiry in such manner as he, or it, deems proper in the interest of justice.

(3) The Inquiry Officer or, as the case may be, the Inquiry Committee shall submit his, or its, findings and recommendations to the competent authority with twenty five days of the initiation of inquiry.

(4) The competent authority may dispense with the inquiry under sub-section (1) if it is in possession of sufficient documentary evidence against the accused, or for reasons to be recorded in writing, it is satisfied that there is no need of holding an inquiry.

(5) Where a person who has entered into plea bargain under any law for the time being in force, and has remained the assets or gains acquired through corruption or corrupt practices voluntarily, the inquiry shall not be ordered provided that show cause notice shall be issued on the basis of such plea bargaining to such person informing of the action proposed to be taken against him and the grounds of such action requiring him to submit reply within fifteen days of the receipt of the notice. On receipt of the reply, the competent authority may pass such orders as it may deem fit.

6. Powers of the Inquiry Officer or Inquiry Committee. - The Inquiry Officer or Inquiry Committee shall have power-

(a) to summon and 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.

7. Procedure to be followed by the Inquiry Officer or Inquiry Committee. - The Inquiry Officer or Inquiry Committee shall, subject to any rule made under this Ordinance, have power to regulate its own procedure, for 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.

8. Order to be passed upon a finding. - Every finding recorded by the Inquiry Officer or, as the case may be. 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 seem property in accordance of the provisions of this Ordinance.

9. Representation and review. - (1) A person who has 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 ¹[Prime Minister] or such officer or authority as the ¹[Prime Minister] may designate:

Provided that where the order has been made by the ¹[Prime Minister] such person may, within the aforesaid period, submit a review petition to the ¹[Prime Minister].

(2) The ¹[Prime Minister], or an officer or authority, as may be designated for the purpose by the ¹[Prime Minister], 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.

Legal Amendments

1 Substituted by Ordi. II of 2003 for the word Chief Executive.

10. Appeal. - 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 Federal Service Tribunal established under the Service Tribunals Act, 1973 (LXX of 1973-).

Court Decisions

Appeal:--Petitioner having been suspended under Punjab Removal from Service Order 2000, he can file appeal before service tribunal - for redressal of his grievance being servant of corporation who have been declared to be civil servant, to invoke Jurisdiction of Service tribunal - Provision of Art. 212 of the institution applies to such employees and they cannot invoke Jurisdiction of High Court under Art 199 of the constitution - Suspension order or holding of inquiry being steps towards passing of final order, no writ petition was maintainable against interim order - Petitioner if found guilty in inquiry being conducted against him, he can file appeal before service tribunals - High Court, however, cannot interfere in such like interim orders in exercise of constitutional Jurisdiction - Writ petition as, thus, not maintainable. **P.L.J. 2002 Lah. 1620**

2001 PLC (C.S.) 623; 2001 PLC (C.S.) 1015; 2000 PLC (C.S.) 533; 1998 SCMR 2240 and 1998 SCMR 999 ref.

11. Ordinance to override other laws. - The provisions of this Ordinance shall have effect notwithstanding anything to the contrary contained in the Civil Servants Act, 1973 (LXXI of 1973), and the rules made thereunder and any other law for time being in force.

12. Proceedings under this Ordinance. - 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.

13. Pending proceedings to continue. - 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 Civil Servants Act, 1973 (LXXI of 1973) and rules made thereunder or any other law or rules, shall continue under the said laws and rules, and as provided thereunder.

14. Pensionary benefits, etc. - 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.

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

16. Removal of difficulties. - If any difficulty arises in giving effect to any of the provisions of this Ordinance, the President 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.