

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

(Sindh Ordinance No. IX of 2000)

[Karachi, the 30th August 2000]

No. S.LEGIS: 1 (9)/2000, -----The following Ordinance made by the Governor of Sindh is here, by published for general information:-

**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. Preamble

WHEREAS it 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 Ordinance 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 Provisional 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 extended 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. |
|--|---|

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

- a) “competent authority” means, the *Chief Minister and where, in relation to any person or class of persons, the Chief Minister 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.

3. ¹[Dismissal, removal and compulsory retirement] of certain person 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 ²[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 on his behalf, is in possession of pecuniary ³[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

- iv) ⁴[he has entered into plea bargaining 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 on extraneous grounds in violation of law and the relevant rules,

the competent authority, after inquiry by the Inquiry Officer or the Inquiry Committee appointed under section 5, may, notwithstanding anything contained in any law or the terms and conditions of services 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 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”.

²[* * * * *]

³[(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 in regard to him and the grounds of the action; and
- b) given 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 “under clause (a) of sub-section (2) of section 3-A” 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.

- (3) *The dismissal or removal of 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.]

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 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”.

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.

¹**[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 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. 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 within 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-bargaining under any law for the time being in force, and has returned 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 on 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 ²[the Inquiry Officer or] Inquiry Committee. --- The ²[inquiry Officer or] Inquiry Committee shall have power ---

- (b) to summon and enforce attendance of any person and examine him on oath;
- (c) to require the discovery and production of any document;
- (d) to receive evidence on affidavits; and
- (e) to record evidence.

7. Procedure to be followed by the [Inquiry Officer or] Inquiry Committee. -- The ¹[Inquiry Officer or] Inquiry Committee shall, subject to any rules made under this Ordinance, have power to regulate its own procedure, ²[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 its members.

8. Order to be passed upon a finding. --- Every finding recorded by the ³[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 deem proper in accordance of the provisions of this Ordinance.

9. Representation and review. ---- (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 may designate;

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

(2) *The Chief Minister or any 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 deemed fit.

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 Sindh Service Tribunal established under the Sindh Service Tribunals Act, 1973:-

*“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”.

11. Ordinance to override other laws. --- 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 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 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.

14. Pensionary or other benefits. --- 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.

14-A* No suit, prosecution or other legal proceedings shall lie indemnity against the competent 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 instruction or directions made or issued there under.

14-B.* Save as provided under this Ordinance, no order made or Jurisdiction proceedings taken under this Ordinance, or the rules made barred there-under by the competent authority or any officer or authority authorized by it shall be called in question in any Court and no injunction 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 there-under.

15. Power to make rules. --- 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 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.

Page # 2

1[In section 3, in the marginal note subs for “Removal, Suspension” by the Sindh Ord. NO: XVII of 2001, the Sindh Govt. Gaz. Extr. Pt.I, P.NO: 1195. dt: May 19,2001

2[In clause (a), added, ibid.

3[In sub-clause (i), subs. ibid, for “resources”.

Page # 3

4[New sub-clause (IV) added, ibid.

1[In clause (e), subs. For “official Gazette” by the Sindh Ord. NO: XVII of 2001, the Sindh Govt. Gaz. Extr. Pt.I, P.NO: 1195. dt: May 19,2001

2[Proviso omitted, ibid.

3[Sub-section (2) subs. By new sub-sections (2) & (3), ibid.

Page # 4

1[Section 5 subs. By the Sindh Ord. NO: XVII of 2001, the Sindh Govt. Gaz. Extr., Pt.I, P.NO:1195. dt: May 19,2001.

2[In section 6 inserted by the Sindh Ord. NO: XVII of 2001, the Sindh Govt. Gaz. Extr., Pt.I, P.NO:1195. dt: May 19,2001.

Page # 5

1[Inserted by the Sindh Ord. NO: XVII of 2001, the Sindh Govt. Gaz. Extr. Pt.I, P.NO: 1195. dt: May 19,2001.

2[In section 7, subs. Ibid, for “, including,”

3[In section 8, subs. Ibid.

* Inserted by the Sindh Ordinance **No.5 of 2004**. The Removal from service (Special Powers) (Amendments) Ordinance, 2004 issued vide Law Department Notification NO.S.Legis:1(5)/2004 dated 26th October,2004.