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PART I

Acts, Ordinances, President's Orders and Regulations

SENATE SECRETARIAT

Islamabad, the 8th December, 2010

The following Act of Majlis-e-Shoora (Parliament) received the assent of the President on 6th December, 2010, and is hereby published for general information:—

ACT NO. XXII OF 2010

An Act to provide relief to persons in corporation service or autonomous or semi-autonomous bodies or in Government service who were dismissed, removed or terminated from service

WHEREAS it is expedient for the purpose of providing relief to persons who were appointed in a corporation service or autonomous or semi-autonomous bodies or in Government service during the period from the 1st day of November, 1993 to the 30th day of November, 1996 (both days inclusive) and were dismissed, removed or terminated from service during the period from the 1st day of November, 1996 to the 12th day of October, 1999 (both days inclusive);

It is hereby enacted as follows:—

(683)

Price : Rs. 10.50

[3050(2010)/Ex.Gaz.]

1. **Short title, extent and commencement.**—(1) This Act shall be called the Sacked Employees (Re-instatement) Act, 2010.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

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

(a) “Chairman” means Chairman of the Sacked Employees’ Review Board;

(b) “competent authority” means any officer or body authorized to exercise any power to do any act, thing or work mentioned in or covered under the subject of this Act;

(c) “defunct organization” means the employer, office, organization or institution which was closed, abandoned or woundup or any employer organization which ceased to exist on or before the 13th day of February, 2009;

(d) “employer” means the Federal Government or any Ministry or Division or department of the Federal Government or a corporation or organization or autonomous or semi-autonomous body established by or under a Federal law or owned or controlled by the Federal Government”;

(e) “Review Board” or “Sacked Employees’ Review Board” means the Sacked Employees Review Board established under section 12;

(f) “sacked employee” means—

(i) a person who was appointed as a regular or *ad hoc* employee or on contract basis or otherwise in service of employer, during the period from the 1st day of November, 1993 to the 30th day of November, 1996 (both days inclusive) and was dismissed, removed or terminated from service or whose contract period was expired or who was given forced golden hand shake during the period from the 1st day of November, 1996 to the 12th day of October, 1999 (both days inclusive);

(ii) a person who was appointed as a regular or *ad hoc* employee or on contract basis or otherwise or who was a member of the civil service of the Federation or who held a civil post in connection

with affairs of the Federation, in a Ministry, Division or department during the period from the 1st day of November, 1993 to the 30th day of November, 1996 (both days inclusive) and was dismissed, removed or terminated from service or whose contract period was expired or who was given forced golden hand shake during the period from the 1st day of November, 1996 to the 12th day of October, 1999 (both days inclusive);

(iii) a person who was appointed or re-instated in service of employer during the period from the 1st day of November, 1993 to the 30th day of November, 1996 (both days inclusive) and who was subsequently dismissed or removed or terminated from service during the period from the 1st day of November, 1996 to the 12th day of October, 1999 (both days inclusive) or who was intermittently dismissed, removed or terminated from service from time to time and re-instated through statuesque order or judgment of any tribunal or any court including the Supreme Court or a High Court or through any administrative order or through withdrawal of any order conveying dismissal, removal or termination or by any other way on any date after the 1st day of November, 1996;

(iv) a persons who was appointed during the period from the 1st day of November, 1993 to the 30th day of November, 1996 (both days inclusive) and dismissed, removed or terminated from Government or corporation service on any charges or allegations during or after the period from the 1st day of November, 1996 to the 12th day of October, 1999 (both days inclusive), whether re-instated or taken back into service or not on-orders of any tribunal or court including the Supreme Court or a High Court or any other authority;

(v) a person who was appointed or re-instated in service of employer during the period from the 1st day of November, 1993 to the 30th day of November, 1996 (both days inclusive) and dismissed or removed or terminated or dissociated or was discontinued from service on account of closure of his or her employer or office or organization, irrespective of the fact that whether a letter or notification or anything in writing for sacked employee's dismissal or removal or termination or dissociation or discontinuation of service was issued or not or the status of sacked employee's service was turned inactive or otherwise; and

- (vi) a person who was appointed or re-instated in service of employer during the period from the 1st day of November, 1993 to the 30th day of November, 1996 (both days inclusive) and dismissed, removed or terminated from service of employer on account of absence from duty, misconduct, mis-appropriation of Government money or stock, or unfitness on medical grounds;
- (g) "Secretary" means Secretary of the Ministry under administrative control of which the sacked employee was working or under administrative control of which the sacked employees' employer was functioning at the time of sacked employee's dismissal, removal or termination from service or in cases where administrative setup is changed, Secretary of the Ministry under administrative control of which the employer was working at the time of enactment of this Act or in case of defunct organization Secretary of the Ministry under administrative control of which the employer would have been working at the time of enactment of this Act; and
- (h) words referring to singular shall also refer to plural and *vice versa* and words referring to masculine gender shall also include feminine gender and *vice versa*.

3. **Application of sacked employee.**—(1) A sacked employee, as defined in section 2 above, may file an application, within ninety days of the enactment of this Act, to an officer of his employer for re-instatement of his service where the sacked employee shall clearly write the date of application appearing on the face of application.

(2) In case, where sacked employee was serving in a defunct organization, he shall file his application for taking him back into service or in cases where sacked employee has already been re-instated under directions of any tribunal or any court including the Supreme Court or a High Court or otherwise he may file his application for his regularization of service.

(3) The application shall be deemed to have been filed with the employer or authority or officer so authorized for the purpose of this Act, if the sacked employee files the application in person or through his representative or through registered post. In case of filing of application through registered post, receipt of registered post alongwith a copy of the application, available with the sacked employee shall stand sufficient evidence of the fact that the application was filed by the sacked employee, on date appearing on copy of application available with the sacked employee.

4. **Re-instatement of employees in service and regularization of employees' service.**—Notwithstanding anything contained in any law, for the time being in force, or any judgment of any tribunal or any court including the Supreme Court and a High Court or any terms and conditions of appointment on contract basis or otherwise, all sacked employees shall be re-instated in service and their service shall be regularized with effect from the date of enactment of this Act, in the manner provided as under, namely:—

- (a) a sacked employee appointed on permanent or temporary basis or regular or *ad hoc* basis or otherwise in any corporation or Government service against a regular or temporary post shall be re-instated and regularized in regular service of the employer on one scale higher to his substantive scale, grade, cadre, group, post or designation, whatever the case may be, held by the sacked employee at the time of his dismissal, removal or termination from service or at the time forced golden hand shake was given to the sacked employee;
- (b) a sacked employee appointed on contract basis against a regular or a temporary post and dismissed, removed or terminated from service before or after expiry of the contract period and whether or not he was again appointed and allowed to complete the period of contract, irrespective of the fact that whether a letter or notification for dismissal, removal or termination of the sacked employee's service or expiry of the contract was issued or not, shall be re-instated and regularized against a regular post of the same scale, grade, cadre, group, post or designation, whatever the case may be, in regular service of the employer;
- (c) a sacked employee who was dismissed, removed or terminated from service of Government or any autonomous or semi-autonomous organization on any charges or allegations levelled against him and during or in the result of any enquiry held by the employer or otherwise on directions of any administrative authority or any tribunal or court including the Supreme Court or a High Court, or any other authority, the sacked employee is proved not guilty of those charges or allegations, he shall be re-instated and regularized in service of the employer in same scale, cadre, group, post or designation, whatever the case may be, in following manner, namely:—
 - (i) sacked employee, who has not been re-instated or taken back in service until the day of enactment of this Act, shall immediately be re-instated or taken back into service and regularized with effect from the day of enactment of this Act, alongwith all

monetary and other service benefits payable and admissible to the sacked employee under provisions of this Act;

- (ii) sacked employee, who has already been re-instated or taken back in service under the directions of any tribunal or court including the Supreme Court or a High Court or otherwise, shall immediately be regularized in service of the employer with effect from the day of the enactment of this Act, along with all monetary and other service benefits payable and admissible to the sacked employee under provisions of this Act; and
- (iii) sacked employees as provided under sub-clauses (i) and (ii) shall be placed at the bottom of seniority list of employer for the scale, cadre, group, post or designation, whatever the case may be, and such sacked employee shall be entitled to promotion, retirement and all other service benefits admissible to the sacked employees under provisions of this Act, and at par with other regular employees of the employer:

Provided that charges or allegations levelled afresh, after judgment, order or directions of the court, under which the sacked employee has been re-instated and the said enquiry was held or charges or allegations levelled at the time of enquiry held under such order or directions of the court or charges or allegation other than levelled at the time of dismissal, removal or termination of sacked employee on basis of which the sacked employee was dismissed, removed or terminated or charges or allegations merely included in the enquiry report and any punishment awarded to the sacked employee on basis of such charges or allegation taken a fresh shall stand nullified and shall have no effect;

- (d) a sacked employee appointed as any type of trainee in service of employer shall be re-instated and regularized on the post, he would have occupied after completion of his term or period as trainee, in regular service of the employer, notwithstanding any condition, under provisions of contract or terms and conditions of appointment regarding availability or vacancy of the post at the time of expiration of period for which he was appointed as trainee;
- (e) (i) a sacked employee who was given forced golden hand shake shall be re-instated and regularized subject to in lump sum refund of all monetary benefits received by such sacked employee in connection with his or her forced golden hand shake; and

- (ii) statement of a sacked employee to the fact that he was forcibly given the golden hand shake in his application, filed under section 3, shall stand enough evidence for purpose of this Act and the sacked employee shall not be asked for any further evidence to establish the fact that he was given forced golden hand shake by the employer;
- (f) a sacked employee re-instated under this Act shall be regularized in the service of the employer in post, scale, grade, cadre, group or designation, whatever the case may be, on which he is re-instated under this Act, as a permanent and a regular employee, with effect from the day of enactment of this Act, at par with other regular employees of the employer concerned and shall be placed at bottom of the seniority list, effective as on the date of enactment of this Act, for scale, grade, cadre, post, group or designation, whatever the case may be, in which the sacked employee is re-instated in accordance with the provisions of this Act;
- (g) in cases where employer fails to re-instate such sacked employee within fifteen days of the date of application, filed by the employee under section 3, such sacked employee shall stand re-instated with effect from the date of enactment of this Act, on first working day after fifteen days of the application filed under section 3; and
- (h) in cases where employer fails to regularize such sacked employee within fifteen days of the date of application filed by the sacked employee under section 3, such sacked employee shall stand regularized with effect from the date of enactment of this Act, on first working day after fifteen days of the date of the application filed under section 3.

5. **Sacked employee already reached at the age of superannuation.**—
In cases where a sacked employee has already reached at the age of superannuation on or before the date of enactment of this Act,—

- (a) such sacked employee shall be re-instated and regularized in service of the employer with effect from the date of enactment of this Act, in the manner provided in this Act and shall be notified to have retired from service of the employer with effect from one day after the enactment of this Act, irrespective of age of the sacked employee;
- (b) such sacked employee shall be paid an amount equal to three years emoluments as provided under section 16;

- (c) such sacked employee shall also be entitled and shall be paid all payments, benefits, privileges and facilities which becomes due on or after or in connection with retirement of regular employees of the concerned employer under law for the time being in force, and in accordance with the rules, procedures and practices applicable for and at par with other regular employees of the employer; and
- (d) if the employer fails to notify the re-instatement or regularization or retirement of the sacked employee within specified time as provided in this Act, the sacked employee on fifteenth day of the enactment of this Act, shall stand re-instated and regularized in regular service of the employer with effect from the date of enactment of this Act and on sixteenth day of enactment of this Act shall stand retired from regular service of the employer with effect from one day after the date of enactment of this Act.

6. Sacked employees removed from service on account of closure of employer organization.—In cases where sacked employee was dismissed or removed or terminated from service or his or her service was discontinued or held in abeyance due to closure or disbandment or winding up of the employer's office, organization or institution, whatever the case may be, or whose employer organization ceased to exist on or before the 13th day of February, 2009, wheather or not, any type of notification in writing was issued or served on the sacked employee, for his dismissal, removal or termination or discontinuation of his service or for his service held in abeyance, shall be re-instated or taken back in service and absorbed and regularized in service of the employer in the manner provided as under, namely:—

- (a) the Secretary, Establishment Division shall be treated as the employer of the sacked employee for purpose of section 3, who shall, within fifteen days of application filed by the sacked employee under section 3, re-instate the sacked employee or shall take him back in service if the sacked employee's employer was closed, disbanded or woundup irrespective of the fact that whether letter or notification was issued for service status of the sacked employee and shall adjust, absorb and regularize the sacked employee in service of the Federal Government in case of employer of the sacked employee was a Ministry or Division or a Government department or any organization not being autonomous or semi-autonomous organization, and shall adjust, absorb and regularize the sacked employee in service of any autonomous or semi-autonomous organization, where employer of the sacked employee was an autonomous or semi-autonomous organization, with effect from the date of enactment of this Act;

- (b) the sacked employee shall be placed at the bottom of the seniority list, effective as on the date of enactment of this Act, for the scale, grade, cadre, post, group or designation, whatever the case may be, of the employer including any Ministry or Division or department or office or autonomous or semi-autonomous organization, where his services are placed;
- (c) where no separate cadre or seniority list is available for employees of a certain Ministry or Division or department, the Secretary, Establishment Division shall take the sacked employee into service and re-instate and regularize him in service at the bottom of the seniority list of the Establishment Division on the date of enactment of this Act; and
- (d) in cases where the Secretary, Establishment Division fails to re-instate or regularize the sacked employee, within fifteen days of application filed under section 3, the sacked employee shall stand re-instated and regularized in regular strength of the Establishment Division with effect from the date of enactment of this Act, irrespective of the employer of sacked employee, whether or not, was any autonomous or semi-autonomous organization.

7. Sacked employees re-instated and again removed from service.—

(1) Provisions of this Act shall apply in full to a sacked employee who was re-instated during the period from the 1st day of November, 1993 to the 30th day of November, 1996 (both days inclusive) and was again removed or dismissed or terminated from service in any way or whose contract period was expired or was given forced golden hand shake during the period from the 1st day of November, 1996 to the 12th day of October, 1999 (both days inclusive).

(2) Sacked employees once re-instated under any Ordinance promulgated for re-instatement of sacked employees after the 13th day of February, 2009 and again dismissed, removed or terminated from service before or after the expiry of their contract period, shall also be re-instated and regularized in regular service of the employer in accordance with provisions of this Act.

(3) For the purpose of sub-sections (1) and (2), the word 'appointed', wherever appearing in this Act, shall, wherever needed, be read as 're-instated' and the word 'again', wherever needed, shall be read before the words "dismissed or removed or terminated", for the purpose of implementation of this Act.

8. Joining of duty by sacked employees.—Sacked employee shall resume his duties within ninety days of the letter issued for his re-instatement or the day the sacked employee stands re-instated under the provisions of this Act.

9. **Sacked employee presently engaged in any other service.**—If any sacked employee is presently engaged in any employment, other than the employment he was dismissed or removed or terminated from, as provided under this Act, shall exercise an option in writing to either resume his service under this Act or continue his present employment, within forty five days of issuance of letter of his re-instatement or within forty five days of the day the sacked employee stands re-instated under the provisions of this Act.

10. **Change in service structure.**—In cases where any change in structure of any scale, grade, cadre, group, post or designation, whatever the case may be, has been made by the competent authority or employer after the 1st day of November, 1996, the sacked employee on re-instatement shall be placed in service of the employer on one scale higher than the scale, grade, cadre, group or designation, whatever the case may be, from which he was dismissed, removed or terminated from service or given forced golden hand shake.

11. **Sacked employees dismissed, removed or terminated from service on account of absence from duty or misconduct or mis-appropriation of Government money or stock or unfitness on medical ground.**—A sacked employee, who was dismissed or removed or terminated from service on account of absence from duty or misconduct or any form of mis-appropriation of Government money or stock or his unfitness on medical grounds, may prefer a petition to the Sacked Employees' Review Board as provided in section 13.

12. **Establishment of Sacked Employees' Review Board.**—(1) There is hereby established a Sacked Employees' Review Board consisting of five members including a Joint Secretary or any other officer equivalent to Joint Secretary or a BPS-20 officer from—

- (i) Establishment Division;
- (ii) Ministry of Law and Justice;
- (iii) Ministry of Finance; and
- (iv) the Ministry under which the sacked employee or his employer was working on the day of enactment of this Act,

and as its head a Chairman, who shall be a person who is a retired Judge of the Supreme Court or of a High Court and appointed by the Federal Government to review the cases of sacked employees as provided in section 11.

(2) The Chairman of the Sacked Employees' Review Board shall be appointed on full time basis, who shall hold office till the time none of the petitions remains pending.

(3) The Sacked Employees' Review Board and the Chairman shall be provided sufficient office accommodation by the Establishment Division in Federal Capital Territory, Islamabad, within ten days of enactment of this Act.

(4) The Secretary, Establishment Division shall, immediately or within ten days of enactment of this Act, place at the disposal of the Chairman at least following officers and staff, sufficiently competent in their work, to work under the administrative control of the Chairman, namely:—

- (a) personal staff to the Chairman as entitled to a Federal Secretary;
- (b) one Deputy Secretary alongwith entitled personal staff;
- (c) two Section Officers;
- (d) two Stenographers or Stenotypists;
- (e) two office Assistants;
- (f) two Naib Qasids; and
- (g) one Daftari.

(5) Any Officer or any employee posted under the administrative control of the Chairman in accordance with the provisions of this Act, shall assume the charge of his office or resume his duties immediately or after the minimum days which are at least required for his traveling to his place of posting through maximum and fastest mode of journey, he is entitled to.

(6) The Secretary, Establishment Division shall provide stationary, office equipments and appliances and any other item needed and requisitioned by the Chairman or any officer working under his administrative control, within three days of the date of requisition.

(7) Establishment Division or any officer of the employer in possession of service record of the sacked employee shall hand over all files, correspondence and all types of record pertaining to the sacked employee, to the officer working under the administrative control of the Chairman, within ten days of the date of enactment of this Act or from the date of posting of first ever officer under the administrative control of the Chairman, whichever is later.

(8) The Chairman shall personally be responsible for non-disposal of the cases within specified time or for any delay occurred in disposal of petition.

13. Petition to the Review Board.—(1) A sacked employee, as provided in section 11, may within ninety days of the enactment of this Act, prefer a petition to the Sacked Employees' Review Board for review of such order of sacked employee's dismissal or removal or termination from service on account of absence from duty or misconduct or mis-appropriation of Government money or stock or unfitness on medical grounds.

(2) The petition shall be deemed to have been filed with the Sacked Employees' Review Board, if the sacked employee files the petition in person or through his representative or through his advocate or attorney or through registered post. In case of filing of petition through registered post, receipt of registered post alongwith a copy of the petition available with the sacked employee shall stand sufficient evidence of the fact that the petition was filed by the sacked employee.

(3) The Review Board shall not redirect or divert the sacked employee to his employer for any purpose including verification of his service data or record or any other reason to register his petition.

(4) The Review Board shall decide and dispose of the petition within ninety days from the date of petition filed under section 11.

(5) The Sacked Employees' Review Board on consideration of review petition and any other relevant record, subject to provisions of sub-section (6), may confirm, set aside, vary or modify the order in question.

(6) After enquiring into facts, if the Review Board is satisfied that—

- (a) the sacked employee was not guilty of charges on basis of which he was removed, dismissed or terminated from service; or
- (b) decision for removal, dismissal or termination of sacked employee from service was based on *malafide* intension; or
- (c) the sacked employee was not guilty of willful absence from duty or the circumstances were so created for him that he was compelled to remain absent; or
- (d) the sacked employee was not guilty of willful misconduct or he was instigated or circumstances were so made or created for him to cross humanly possible limits of good conduct; or
- (e) the sacked employee was not really involved in mis-appropriation, he was accused of or mis-appropriation did not really occur or the sacked employee was dragged into such mis-appropriation or it was so manipulated or maneuvered to indulge him into such case; or
- (f) the sacked employee was not really suffering the ailment which he was accused of or on basis of which he was removed, dismissed or terminated from service or the medical certificate or decision of the medical board was mis-understood or it was maneuvered or manipulated to get medical certificate or decision of the medical board in such a way, which may lead to removal, dismissal or termination of the sacked employee from service; or

- (g) for any other reason, the removal, dismissal or termination of the sacked employee from service was unlawful, the Review Board shall pass an order in writing to re-instate and regularize the sacked employee in regular service of the employer, as provided in sections 4, 5 and 6 and other provisions of this Act.

(7) The Review Board if fails to deliver its decision on any petition within specified period, as provided in sub-section (4), the sacked employee shall stand re-instated and regularized, subject to and in accordance with the provisions of this Act, in regular service of the employer except sacked employees dismissed, removed or terminated from service on account of mis-appropriation of money or stock.

(8) The order of the Sacked Employees' Review Board passed on the review petition under sub-section (5) or (6) or the sacked employee stood re-instated and regularized under sub-section (7), shall be final and shall not be called in question in any court, authority or tribunal.

(9) In dealing with cases under this Act the Review Board shall have power to regulate its own procedure.

14. Promotion and other benefits, privileges, facilities and payments admissible to sacked employees during future service.—Subject to provisions of this Act, sacked employee once placed in seniority list of the employer, shall be entitled to further promotion and every type of service benefits, privileges, facilities or payments, during his service and after retirement, which shall effect, not before his attaining the age of superannuation, unless otherwise he himself intends to retire under prevailing rules, but not in result of any instigation or any kind of pressure over him to request for voluntary retirement.

15. Creation of supernumerary post.—(1) Where due to non-availability of sanctioned posts in equivalent grade, cadre, group, scale or designation, whatever the case may be, in the Government or any autonomous or semi- autonomous organization, the Secretary of the respective Ministry or Division or head of the department or corporation or autonomous or semi-autonomous organization shall immediately create supernumerary or additional posts to accommodate the sacked employees re-instated under this Act and such arrangements shall continue till the availability of regular posts and adjustment of sacked employees against such regular posts.

(2) Supernumerary or additional posts created under sub-section (1) shall continue till attaining the age of superannuation by the sacked employee or absorption of the sacked employee against a regular post, whichever is earlier, without any approval of any authority or officer or Ministry, which would have otherwise been required under normal conditions.

