

**ISLAMABAD HIGH COURT,**  
**ISLAMABAD.**

File No.95(XXI)/Conf./IHC.

Dated 28<sup>th</sup> November, 2020.

**ORDER OF THE AUTHORITY**

**(In the matter of : Inquiry against Mr Muhammad Jahangir Awan,**  
**Additional District & Sessions Judge (West), Islamabad).**

It was reported that allegedly Muhammad Jahangir Awan, Additional District & Sessions Judge, (West) Islamabad [hereinafter referred to as the "Answering Judge"] was involved in acts and omissions which amounted to conduct unbecoming of a person holding the office of a judge and a gentleman. An incident report, dated 14.09.2020, was received by the Registrar of this Court from the Superintendent of Police, City Zone, Islamabad. It was alleged in the report as follows;

*"Both parties were travelling on Constitution Avenue (south-bound) during which they had an altercation during overtaking. Khurram Pervez travelling in white Land Cruiser number KA-004 reportedly honked horns which offended Jahangir Awan who was travelling in White Premio number AQB-992. Jahangir Awan allegedly made an inappropriate gesture.*

*Thereafter, Mr. Jahangir Awan went to PSO Petrol Pump for refueling his vehicle. Khurram Pervez alongwith his cousin Muhammad Bilal followed him there, approached his vehicle and physically assaulted him. A scuffle started during which Mr. Jahangir Awan took out his pistol and fired 2 shots in the air."*

2. It is noted that disciplinary proceedings were already pending against the Answering Judge pursuant to a report, dated 27.07.2020, received from the learned District & Sessions Judge, (West) Islamabad. The former had been placed under suspension vide notification, dated 28.07.2020, and the inquiry proceedings are pending against him. The Answering Judge had also been informed in writing that his conduct was being observed.

3. The facts stated in the incident report, dated 14.09.2020, did not appear to conform to the high standards of probity and propriety expected from a judicial officer and, therefore, a show cause notice, dated 15.09.2020, was served on the Answering Judge. The latter submitted a written reply, dated 26.09.2020, wherein he denied any prior interaction with the main accused nominated in FIR No. 210/2020, dated 14.09.2020. The said FIR was registered pursuant to the complaint submitted by the Answering Judge. A plain reading of the FIR and the complaint shows that the Answering Judge did not refer to any incident that may have taken place prior to the incident at the crime scene i.e. the Gas/Petrol Service Station of Pakistan State Oil Company, situated on the Constitutional Avenue [hereinafter referred to as the "Station"]. The main accused, namely Khurram Pervez, is stated to be the husband of a member of the provincial assembly of the province of Punjab. According to the material placed on record, both the Answering Judge as well as the main accused were taken to the Police Station but they were later released. The incident had taken place on 13.09.2020 while, on 14.09.2020, the Answering Judge recorded a supplementary statement nominating one Bilal Abbasi as the other co accused. The latter had, on the same day, voluntarily presented himself before the Investigating Officer and he was arrested. The accused Bilal Abbasi was released after his petition for grant of bail was accepted by this Court. The main accused presented himself before the Investigating Officer on 16.10.2020 and, thereafter, he was also arrested. The Answering Judge appeared before the learned Judicial Magistrate on 24.10.2020 and recorded his statement to the effect that he had forgiven both the accused and that he had no objection if the main accused was released on bail or handed down acquittal. Pursuant to the said statement, the main accused was granted bail vide order, dated 24.10.2020. A report was sought by the Registrar of this Court from the Inspector General of Islamabad Capital Territory regarding the status of the investigation. The latter vide letter, dated 03.11.2020, submitted a detailed report wherein the opinion formed by the Investigating Officer during the course of investigation was stated to be as follows:-

*"During the course of investigation it revealed that both parties were travelling on Constitution Avenue (South-bound) during which they had an altercation during overtaking. Khurram Pervez travelling in a white Land Cruiser bearing registration number KA-004 reportedly honked horns which offended Jahangir Awan who was travelling in White Toyota Premio bearing Registration Number AQB-992. Jahangir Awan allegedly made an inappropriate gesture. Thereafter, Mr. Jahangir Awan went to PSO Petrol Pump for refueling his vehicle. Khurram Pervez alongwith his cousin Muhammad Bilal followed him there, approached his vehicle and physically assaulted him. A scuffle started during which Mr. Jahangir Awan took out his pistol and fired 2 shots in the air."*

4. It is noted that the Answering Judge was no more a mere complainant but he had simultaneously become an accused because the Investigating Officer had included the offence under section 337-H(2) of the Pakistan Penal Code, 1860 for the act of resorting to the use of a fire arm weapon. The Answering Judge was alleged to have acted in a rash and negligent manner, which could have endangered human life or the safety of others.

5. The Answering Judge was afforded an opportunity of personal hearing on 28.11.2020. He appeared and was heard at length. He could not give a plausible explanation for his conduct. As already noted, the Investigating Officer, based on investigation conducted by him, had included the offence under section 337-H(2) of the Pakistan Penal Code, 1860. The Answering Judge, in his defense, has disputed the acts attributed to him in the incident report prior to the occurrence at the Station. He has denied the findings of the Investigating Officer regarding his involvement in acts amounting to road rage, which seem to have provoked the main accused, ultimately leading to the incident at the Station. He could not give a reasonable explanation for entering into a compromise with the main accused and, pursuant thereto, recording a statement on 24.10.2020 before the learned court, particularly when he had raised serious allegations in the complaint submitted by him for the registration of a criminal case.

6. The acts of the main accused and the Answering Judge at the Station are not disputed. The parties were certainly not ordinary citizens; one was a judge and the other the husband of a lawmaker from the treasury benches. The crime scene was situated in a high security area of the capital i.e. the "red zone". It is also obvious from the record that the administration of the Islamabad Capital Territory and the police officials did not treat them like ordinary citizens. The main accused was admittedly not armed when the incident took place, thus the act of the Answering Judge of firing twice from his firearm weapon had to be justified and he had to discharge the onus that it was absolutely necessary for a judge to do so. The Investigating Officer had included the offence under section 337-H(2) of the PPC and criminal proceedings against the Answering Judge are pending. His status is thus of an accused in the pending proceedings. It was after considerable delay that the main accused had voluntarily presented himself before the Investigating Officer, which ultimately led to his arrest. The Answering Judge entered into a compromise with the two accused and, pursuant thereto, he recorded his statement before the learned Magistrate. By doing so, the findings of the Investigation Officer arrived at during the course of the investigation, as reproduced above, remained uncontested. It is noted that there is a presumption of regularity and sanctity attached to the investigation conducted in a criminal case and the opinions and findings formed by the Investigation Officer in the light thereof, unless it can be demonstrably shown to be otherwise on conclusion of the trial. The Answering Judge disputes the findings of the Investigating Officer regarding his conduct which had led to the incident at the Station but he failed to offer a satisfactory explanation for the shockingly aggressive behavior of the main accused at the Station if that was not the case. The Answering Judge also could not give a plausible explanation for using a fire arm weapon when, admittedly, the main accused and the other person accompanying him were unarmed. Prima facie, it cannot be ruled out that the Answering Judge may have acted in a rash and negligent manner. The Answering Judge could not give a satisfactory reason for entering into a compromise with a person who had physically man handled

him publicly and that too when he asserts that it was unprovoked. An independent reasonable observer would definitely not trust the stance taken by the Answering Judge, which is not supported by the findings of the Investigating Officer. The criminal case was registered pursuant to the complaint submitted by the Answering Judge and he himself had become an accused for allegedly committing the offence under section 337-H(2) of the PPC. Should the Answering Judge not have allowed the law to take its own course until the alleged offence under section 337-H(2) of the PPC to his extent was proved wrong? His entering into a compromise with the main accused has the effect of condoning violations of law, which in this case was publicly demonstrating detestable conduct and the act of resorting to the use of a firearm weapon. Would the outcome of such behavior have been different if the parties involved were ordinary citizens? The incident had attracted extraordinary public attention because of the status of the parties, more so because one of them held a judicial office and represented the institution even when outside the court. It also appears that the response of the authorities of the Islamabad Capital administration was cautious which would not have been the case if ordinary citizens had been involved. The Answering Judge was not an ordinary person and he was carrying the mantle of his exalted office even when he was travelling or at the Station. Was his conduct unbecoming of a judicial officer and a gentlemen?

7. A judge has a special status in society because of the role and duties assigned to the office by the State. A judge performs functions on behalf of the State as an arbiter of disputes. The duty is a divine feat. The seat of a judge is placed on a raised platform and when the latter enters the courtroom or retires to the chambers, those in attendance rise. It is not because of the individual but to show respect to the court and the noble role assigned to the office by the State. The rights, whether enshrined in the Constitution or other inherent human rights, would be worth nothing if they could not be enforced. An independent, impartial and competent judiciary, which commands the respect and

confidence of the people, guarantees the enforcement of rights. Justice must not only be done but it must also be seen to be done. It is, therefore, inevitable that individuals who hold the office of a judge must at all times strive to demonstrably display conduct which enhances the confidence of the people. The nature of the office exposes a judge to constant scrutiny by the people because, understandably, they have a vital interest. The scrutiny of their conduct is not restricted to official functions but extends to private acts as well. A judge is expected to conform to a higher standard of probity and propriety than an ordinary citizen even outside the court and a breach has the effect of degrading the institution and thus erodes public confidence in the administration of justice. A judge is expected to display diligence and care in personal activities more than is expected from others because the ultimate goal is to maintain public confidence in the judicial system. The appearance of impropriety is sufficient to adversely affect the confidence of the people. The conduct of a judge, whether in or outside the court, must be beyond reproach. A person holding the office of a judge must always be mindful of the fact that the latter, even in the case of private activities, will always be closely observed by the people because of the heightened deference associated with the exalted position. The test is as to how a reasonable observer would view the conduct. It is the duty of a judge to avoid situations that are likely to erode respect for the judicial office or cast doubts upon the latter's conduct.

8. The Answering Judge was earlier alleged to have acted in a manner unbecoming of a judicial officer. In this case, the Answering Judge could not rebut the presumption of regularity and sanctity of the process of investigation and, pursuant thereto, the preliminary findings of the Investigating Officer. The cause of the incident at the Station being gestures made by the Answering Judge have been confirmed by the Investigation Officer and the findings appear to be reasonable. The use of a firearm weapon when, admittedly, the accused were not armed had attracted the offence under section 337-H(2) of the PPC against the Answering

Judge. The latter did not notify the incident to the Registrar of this Court. By entering into a compromise with the main accused and recording a statement in favour of acquittal, the Answering Judge left crucial questions unanswered, especially since he was alleged to have committed the offence under section 337-H(2) of PPC. The decision of resorting to the use of a firearm weapon in a case which apparently related to road rage had to be justified. The Answering Judge, because of his office, had to discharge a heavy onus of not being rash and negligent. The haste in entering into a compromise could not be satisfactorily explained, particularly when the conduct of the Answering Judge was not in conformity with the probity and propriety expected from a person holding the office of a judge. The conduct was not in accordance with the highest standards expected from a judge. The Answering Judge, after the registration of the criminal case, was expected to allow the law to take its own course so that the blemish of being rash and negligent in using a firearm weapon and the indecent gestures made during road rage were removed. A judge is a custodian of the rights of the people and owes a duty to maintain rule of law in the society. The use of a firearm weapon by a judge in a public place is unthinkable and such conduct is not expected by the society. The expectation from a judge is far more than an ordinary citizen. The Answering Judge could not discharge the onus and chose not to do so by entering into a compromise with the accused who had displayed shockingly despicable conduct. The Answering Judge had willingly condoned acts that were unacceptable in a society governed under the law. The Answering Judge ignored the fact that even while driving on the Constitutional Avenue or parked at the Station he was a representative of the institution and not an ordinary individual. The aforementioned conduct of the Answering Judge was not in conformity with the high standards of probity and propriety expected from a judicial officer even when not discharging official functions or presiding over the court. The conduct had profound consequences in the context of confidence of the people in the judicial system. The conduct was definitely unbecoming of a judicial officer and a gentleman and consequently amounting to

'misconduct' defined under clause (e) of Rule 2 of the Punjab Civil Servants (Efficiency & Discipline) Rules, 1999.

9. I, therefore, as an Authority am satisfied that the misconduct on the part of Answering Judge stands established and consequently in exercise of powers conferred upon me under Rule 4(1)(b), the major penalty of "**dismissal from service**" provided under clause (v) *ibid* of the Punjab Civil Servants (Efficiency & Discipline) Rules, 1999 is hereby imposed upon Mr Muhammad Jehangir Awan, Additional District and Sessions Judge (West) Islamabad. He accordingly stands dismissed from service.

(ATHAR MINALLAH)  
CHIEF JUSTICE