**[Raja Pervaiz Ashraf](https://nation.com.pk/16-Feb-2020/raja-pervez-ashraf" \t "_new)**

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Earlier this month, while no one was really paying attention to the issue, Raja Pervaiz Ashraf, the former Prime Minister of Pakistan, was acquitted of all charges in the alleged corruption case concerning 437 illegal appointments (in BS-01 to BS-16), in the Gujranwala Electric Supply Company (GEPCO).

Why? Did he not illegally appoint 437 people in GEPCO? Of course not. He did. Admittedly so. However, in light of the new amendments to the NAB Ordinance, made by the PTI government earlier this year, illegal appointment of these employees (on the basis of political favors and nepotism) is no longer an offence under the NAB Ordinance. Not unless NAB can prove that Raja Pervaiz Ashraf actually received money in lieu of these illegal appointments. And since Raja Pervaiz Ashraf’s bank account had not been directly credited by the illegal appointees, he was acquitted of all charges against him, by the NAB court.

This judgment, for all intents and purposes, is the first (of many) such acquittals that are likely to result from the recent NAB amendments made by the PTI government. It is the just the tip of this iceberg of ‘compromise’ that PTI has made to the very people that the Prime Minister had promised not to spare. In fact, in the days and months to come, the results of these recent amendments in the NAB ordinance are likely to undermine the entire accountability narrative of PTI’s government, lending legitimacy to those who claim to have been politically victimized in the process.

Let us pause, therefore, to understand the substance of Raja Pervaiz Ashraf’s acquittal judgment, and how the NAB amendments are likely to undermine the promise of political and financial accountability in our land.

Specifically, Reference No. 100/2016 had been filed against Mr. Pervaiz Ashraf (the then Minister for Water and Power) along with as well as seven, “who allegedly made illegal appointment [in GEPCO], after waiving the condition of written test” and other procedure requirements. Per the undisputed facts, these job were distributed amongst individuals who had not even applied for the job, merely on their affinity to the accused Minister, or his political party members. To this end, a charge for “misuse of authority”, under section 9(a)(vi), was framed against the accused on 19.09.2017 and the trial commenced accordingly.

Those who have seen the evidence claim that this was, proverbially, an ‘open and shut case’. Admittedly there no process had been following in appointing these 437 individuals. All appointees were PPP workers and their supporters. Some were direct family members and relatives of local PPP power-brokers. Expressly stipulated process had been ignored, and instead political favors and nepotism had been doled out. In fact, several of the appointees did not even qualify (academically) for the job they were recruited to. And this record stood ‘admitted’ by all parties to the litigation.

However, on 28.12.2019, the PTI government introduced amendments to the Nab Ordinance. This amendment, inter alia, added an “explanation” to the offence of “misuse of authority”, under section 9(a)(vi) of the NAB Ordinance. Specifically, the amendment stipulates that “For the purpose of this clause, nothing shall be construed as misuse of authority by a holder of public office unless there is corroborative evidence of accumulation of any monetary benefit or asset which is disproportionate to his known sources of income or which cannot be reasonably accounted for.” In other words, unless NAB can prove that that the public officeholder acquired actual money or asset, in recompense for the misuse of his/her authority, no offence will have been committed under section 9(a)(vi) of the NAB Ordinance. Political favors and nepotism, in the distribution of public sector jobs, is no longer a grave enough offence.

In fact, even if there is financial benefit or exchange, but such benefit has not happened directly in the “assets” of the public office holder, there is no possibility of section 9(a)(vi) offence. In other words, if a political leader illegally hands out public sector jobs/benefits to individuals (in order to ‘buy’ their votes), or receives payments in a relative or friend’s bank account, such public office holder is not guilty of ‘misuse of authority’ under NAB Ordinance.

This amendment changed everything for the Raja Pervaiz Ashraf case. Almost immediately following passing of this amendment, Raja Pervaiz Ashraf submitted an application for his acquittal, claiming that his actions no longer fall under the ambit of NAB Ordinance. The question before the NAB court, in the circumstances, was whether such amendment/explanation would apply ‘retrospectively’ to acts committed prior to promulgation of this amendment.

The learned NAB court, after discussing precedents of the honorable superior Courts, concluded that “it is now well settled that an explanation added to the statutory provision is not a substantive provision in any sense of the term but as the plain meaning of the word itself shows it is merely meant to explain or clarify certain ambiguity which may have crept in the statutory provision”, and would thus apply retrospectively.

Therefore, the learned Court declared “that misuse of authority by a person holding public office or a person discharging official duties, shall not constitute an offence, unless there is corroborative evidence of accumulation of any monetary benefit or asset.” Applying this principle to Raja Pervaiz Ashraf’s case, the learned Court concluded that “in the instant case, even there is no allegation levelled by the prosecution against the accused person regarding gaining of monetary benefit, what to talk about production of evidence in this regard.” As a result, the court concluded that “no offence of misuse of authority, corruption and corrupt practices as envisioned u/s 9(a)(vi) and (xii) of the NAO 1999, for which accused are charge sheeted, is made out against the accused persons facing trial and there is absolutely no probability of conviction of the accused persons by any stretch of imagination.” Consequently, Raja Pervaiz Ashraf, and his co-accused, were acquitted – despite the fact that the 437 appointments had all (admittedly) been made in violation of the law, on the basis of political favors and nepotism.

All we can do, in the circumstances, is shake our head and thank the PTI government for finally breaking this myth of political accountability. In the coming weeks and months, individuals like Miftah Ismail, Shahid Khaqal Abbasi, Ahsan Iqbal and others are all likely to gain similar acquittals, on the basis of these amendments to the NAB ordinance. And with it, project of political and financial accountability will be served a devastating blow, in letter and spirit.

This episode should make PTI supporters question their political choices: maybe Imran Khan and his PTI is not going to be any different than the past forty years of ‘muk-muka’. Despite the rhetoric, maybe this party will also protect the strong, and prosecute the weak. If so, Imran Khan will lose the very core of his political base. What is worse, he may be held responsible for destroying the hope of accountability in a new generation of Pakistanis who were foolish enough to believe in him.