

THE HIGH COURT OF SINDH, KARACHI

Before:

Justice Mohammad Karim Khan Agha

Justice Adnan-ul-Karim Memon

CP No D-1475 of 2014

Petitioners : through Muhammad Nishat Warsi advocate
Respondent No. 3 through Syed Mustafa Ali advocate assisted by
Mr. Hamood-ur-Rehman and Mr. Haider Ali Shah
advocate.
Respondent Nos. 1 & 2 Ms. Wajiha Mehdi Assistant
Attorney General
Date of hearing : 21-05-2025
Date of order : 21-05-2025

ORDER

Adnan-ul-Karim Memon, J., The petitioner requests the Court to order the production of records and comments from the respondents. He further seeks a declaration that his termination from service is illegal and void, along with a directive for his reinstatement with continuous service and all back benefits. Additionally, he asks for a mandate compelling Respondents No. 1 and 2 (Federal Government entities) to implement the Federal Cabinet's decision, either by reinstating him or arranging his absorption into another department with a Golden Handshake.

2. The petitioner, who was previously a typist and was promoted to Officer Grade-III at United Bank Limited (UBL) in 1994, claims he was unlawfully terminated in October 1997. Despite having a clear service record, UBL, which was then government-owned, allegedly dismissed him and thousands of others without offering the voluntary retirement or golden handshake scheme adopted by other state corporations. The petitioner's appeals and subsequent government directives for his reinstatement and absorption were ignored. Previous legal actions, including a constitutional petition (D-1225/98) and a Service Tribunal appeal (245(K)CS/2001), were either dismissed or abated due to jurisdictional issues, along with the Supreme Court's striking down of Section 2A of the Service Tribunal Act (PLD 2006 SC 602).

3. The petitioning counsel argued that his termination was illegal and discriminatory, asserting that juniors were retained and the "last in, first out" principle was ignored. He seeks reinstatement with full benefits and enforcement of the Federal Cabinet's decision for his re-employment or absorption with a golden handshake, arguing against any claims of delay given his continuous legal battle and a previous dismissal attributed to a judge's recusal. Learned counsel referred to various documents and attempted to convince this court that all the issues involved in the matter are alive. He prayed for allowing the petition.

4. Counsel for UBL argues the petition is not maintainable for several reasons: First, UBL is a private banking company, not a "person" under Article 199 of the Constitution. The petitioner also cannot "approve and reprobate" as he accepted a final settlement of PKR 605,112/- in November 2000. UBL, lacking statutory service rules and not performing state functions, maintains that a constitutional petition is therefore inappropriate. Second, the relationship between UBL and the petitioner was governed by "Master and Servant" principles, meaning any remedy for alleged breach of contract would lie in claiming damages, not a constitutional petition. Counsel cites **1998 SCMR 68** to support the argument that writ petitions against UBL by ex-employees are generally not maintainable. Third, UBL's privatization on October 19, 2002, with 51% control transferred to a private consortium, further renders a post-privatization Constitution Petition non-maintainable. Finally, the counsel asserted that the petition is barred by legal principles Order 2, Rule 2 of the Code of Civil Procedure, 1908, as the petitioner previously withdrew a similar suit (No Nil of 2006) for the same relief without permission to refile. Res judicata, due to the dismissal of a prior Constitution Petition (D-1927/2007) for non-prosecution, which has attained finality. He added that the doctrine of laches applies, given the almost two-year delay in refiling after the dismissal of the previous petition's restoration application in September 2012. UBL's counsel also refuted the petitioner's claims regarding federal government control over UBL's operations, the announcement of a blanket voluntary retirement scheme, the petitioner's reinstatement, his health issues, and his alleged lack of seniority. In support of his contentions, he relied upon the cases of United Bank Limited and Toohrs v Ajsam Akhtar and others **1998 SCMR 68**, Atiq-ur-Rehman and others v Province of Sindh & others **2024 PLC (C.S) 1424**, Abrar Ahmed Khan v The Sindh Labour Appellate Tribunal Karachi & others **PLD 1997 Karachi 444**, Mst. Kishwar Sultana v Nizam-ud-Din & others **2023 CLC 1349**, Daan Khan through Legal heirs v Assistant collector **2019 CLC 483**, Noor Badshah through LRs. v United Bank Limited and others **2019 PLC (C.S) 1433**, Abdul Wahab and others v HBL and others **2013 SCMR 1383**, United Bank Limited & others v Ahsan Akhtar and others **1998 SCMR 68**, and United Bank Limited & others v Shamim Ahmed Khan and others **PLD 1999 SC 990**. Lastly, he prayed for the dismissal of the petition.

5. We have heard the learned counsel for the parties and perused the record with their assistance and case law cited at the bar.

6. It is urged by the parties that the UBL paid the Petitioner PKR 605,112/- as termination dues, also known as a Golden Handshake, which the Petitioner acknowledged receiving on November 22, 2000. The Petitioner's employment with UBL ended due to retrenchment while he was an officer, consistent with the service rules then in effect. The Petitioner has since reached the age of superannuation, rendering the question of reversing his termination from service purely academic. This makes prayer clauses B to D redundant, as his service with UBL had already ended. Furthermore, the Supreme

Court of Pakistan has previously ruled on similar cases in United Bank Limited v. Ahsan Akhtar (1998 SCMR 68), the Supreme Court held that writ petitions filed by aggrieved former employees against UBL are not maintainable. The Supreme Court also allowed Civil Appeal Nos. 1487 to 1528 of 1998 in United Bank Ltd. v. Shamim Ahmed Khan & others (PLD 1999 SC 990) on May 25, 1999, which concerned the compulsory retrenchment scheme to reduce staff strength. Therefore, the issue of retrenchment cannot be revisited at this stage. Regarding the implementation of the Federal Cabinet's decision in the Petitioner's case, this is an old issue, and too much time has passed to issue any directions. Finally, no direction can be issued for the Petitioner's absorption into any department with the Golden Handshake due to his reaching the superannuation age. Consequently, all issues raised in this petition are no longer relevant, leading to the dismissal of the current petition and any pending applications. This petition is dismissed accordingly.

JUDGE

HEAD OF CONST. BENCHES

SHAFI