

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
C.P No.D-1746 of 2014

Date

Order with signature of Judge

Present

Mr. Justice Muhammad Ali Mazhar.
Mr. Justice Adnan-ul-Karim Memon.

Fateh Khan

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Petitioner

V E R S U S

Federation of Pakistan & others

Respondents

Date of hearing 14.12.2016

Petitioner is present a/w his counsel Syed Samiullah Shah, Advocate.

Mr. Muhammad Ashraf, Advocate for the Respondents.

Sh. Liaqat Hussain, Standing Counsel.

Muhammad Ali Mazhar, J: The case of the petitioner is that he was performing his duties as driver in NLC but on 31.12.2013, he was verbally terminated.

2. Learned counsel for the petitioner argued that after termination, he filed two appeals which are available at page 29-31 but his appeals have not been decided.

3. The Respondent No. 2 & 3 have filed their comments in which they have taken a plea that the petitioner was discharged on some disciplinary grounds as he was found involved in some immoral activities. He also admitted his guilt before the Special Investigation Bureau as well as Local Intelligence Bureau, thereafter, NLC had no further right to initiate inquiry.

4. Learned counsel for the Respondent No. 2 & 3 argued that the petitioner is not civil servant, therefore, he cannot

approach to Federal Service Tribunal and in support of his contention, he placed on record the order passed by Federal Service Tribunal in Appeal No. 450(K)CS/2002 and seven other appeals. He further argued that the order of the Federal Service Tribunal was challenged in the Hon'ble Supreme Court in Civil Appeals Nos. 199-K to 204-K of 2010 but after arguing at some length, the appellants before the Hon'ble Supreme Court did not press the appeals and decided to approach to the proper forum. At the same time, learned counsel referred to a judgment of this court in the case of Muhammad Aslam Vs. Incharge NLC Center, reported in PLD 2001 Karachi 135, in which, it was held that jurisdiction to entertain the petition against the NLC is barred under Article 199(3) of the Constitution.

5. In view of the aforesaid judicial precedent, we have left with no option except to dismiss this petition but at the same time, we would like to observe that at least two memo of appeals are attached with the petition which according to the petitioner are pending before the competent authority, therefore, while dismissing this petition, we would like to observe that the competent authority may sympathetically look into the matter and if the appeals are pending the same may be decided after providing ample opportunity of hearing to the petitioner.

JUDGE

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