

IN THE HIGH COURT OF SINDH, AT KARACHI

Present:
Mr. Justice Irfan Saadat Khan
Mr. Justice Adnan-ul-Karim Memon

C.P No.D-7375 of 2015

Qaim Ali ShahaniPetitioner

Versus

Chief Minister Secretariat & othersRespondents

Date of hearing 25.05.2018

Mr. K. Ali Shaikh advocate for the Petitioner.
Mr. Shahryar Mehar, AAG.

ORDER

ADNAN-UL-KARIM MEMON,J:- Through the instant petition, the Petitioner is seeking direction to the Secretary Chief Minister Secretariat Government of Sindh to enquire from the Respondent No.2 as to why the service of the Petitioner has been terminated. Petitioner seeks further direction to the Respondent No.1 to restore his service as composer in Media Cell of Chief Minister Secretariat / House along with back benefits.

2. Brief facts of the case, as per averments of the parties, are that Petitioner was initially recommended along with others for honoraria for the post of Handout (temporary) in Chief Minister Secretariat / House vide letter dated 25.02.2015. Petitioner claims that he submitted his joining report, which was allowed on 07.05.2015, thereafter he continued his service in the Respondent-Department. Petitioner has submitted that

Media consultant to Chief Minister Sindh / Respondent No.2 floated Summary for Chief Minister Sindh for inclusion of post of the Petitioner along with other posts in respect of Media Cell in annual budget 2015-16. Petitioner further added that the Respondent No.2 proposed that the post of the Petitioner may be re-designated as composer against fixed salary of Rs. 25,000/-. Petitioner further averred that the Media consultant/ Respondent No.2 has stopped the salary of the Petitioner from month of February 2015 without any reason. Petitioner has submitted that his service has wrongly been dispensed with by the Respondent No.2 without any reason. He lastly prayed for allowing the instant Petition.

3. The Respondent-Department filed parawise comments and controverted the allegations leveled by the Petitioner with the assertion that the Petitioner had never been issued any offer for appointment against any post, therefore the question of joining the service of Respondent No.2 does not arise; that without any appointment letter Petitioner cannot claim the salary; that no salary sheet was prepared in favour of the Petitioner, however it is made clear that the salaries are not prepared on sheets as demonstrated by the Petitioner; that the Petitioner has falsely claimed his appointment on the aforesaid post in the Chief Minister Secretariat. The Respondent-department has premised that the Petitioner has neither been appointed nor terminated by them and the case of the Petitioner is based on false claim and forgery.

4. Mr. K. Ali Shaikh, learned counsel for Petitioner has argued that the Petitioner was legally appointed on the post of composer in the Respondent No.1's department; that upon joining the service on

27.02.2015 the post of the Petitioner was re-designated and his salary was fixed at monthly Rs. 25,000/- as a regular employee and not that of a contract employee of the Respondent-department, thus his service is liable to be continued and actualized and he is entitled to be treated as a regular employee without discrimination; that the salary of the Petitioner has been given to one Muhammad Jumman Solangi with malafide intention of the Respondents; that no opportunity of hearing was given to the Petitioner while dispensing his service; that the Petitioner has agitated his grievance through various letters but of no avail. Learned counsel for the Petitioner in support of his contention has relied upon letters dated 25.02.2015, his joining report dated 27.02.2015, Gate Pass Card and copy of Summary for Chief Minister Sindh dated 05.05.2015. He lastly prayed for allowing the instant petition as prayed.

5. We have considered the submissions of the parties and have perused the material available on record.

6. The documents and record reveals that seven persons were recommended for various post on honoraria in the Chief Minister Secretariat pursuant to the order dated 25.02.2015, issued by the Respondent No.2, which states that the Petitioner is recommended on honoraria basis, however, only after few months in the month of May 2015 Respondent No.2 floated a Summary for the Chief Minister Sindh for inclusion of posts in respect of Media Cell in the annual Budget of 2015-16. Record does not reflect that the Petitioner was appointed on the post of Handout (temporary) or composer, however the Petitioner has only placed on record a copy of purported joining report, without any

offer or appointment letter. Learned counsel for the Petitioner during the course of argument has drawn our attention to the letter dated 05.05.2015, which prima facie show that the name of the Petitioner is appearing at Serial No.5 for the position of composer under fixed remuneration/ honorarium of Rs. 25,000/-. In the light of foregoing factual position of the case, we are of the considered view that we cannot determine the veracity of the documents placed on record which has been disputed by the learned AAG through comments. The letter dated 05.05.2015 does not transpire that the appointment of the Petitioner has been approved or otherwise. The aforesaid letter is just a proposal with regard to the seven posts and inclusion of the aforesaid post in respect of Media Cell in the annual Budget of 2015-16. We asked from the learned counsel for the Petitioner to satisfy this Court as to whether this proposal was approved by the Competent Authority on which the learned counsel for the Petitioner has replied in affirmative without placing on record the copy of the approval of the said Summary. We therefore in the light of what has been noted above are not satisfied with the assertion of the learned counsel for the Petitioner and for the aforesaid reasons, the petitioner in our view has failed to make out a case for indulgence of this Court. The instant Petition therefore is hereby dismissed along with the pending application(s).

JUDGE

JUDGE

Karachi
Dated: 25.05.2018