

IN THE HIGH COURT OF SINDH, AT KARACHI

Present:

Mr. Justice Irfan Saadat Khan

Mr. Justice Adnan-ul-Karim Memon

C.P No. D-2377 of 2017

Atif Hussain

V/s

The Secretary Ministry of Textile Industry and other

Petitioner : Atif Hussain in person

Respondents : Through Mr. Shaikh Liaquat Hussain, Assistant Attorney General along with Mr. Kafeel Ahmed, Assistant Director Ministry of Textile Industry.

Date of hearing: 26.01.2018

J U D G M E N T

ADNAN-UL-KARIM MEMON, J:- Through the instant Petition, the Petitioner prays for setting aside the impugned termination order 21.03.2016.

2. Brief facts of the case as per averments made in the memo of petition are that the Petitioner was appointed as Instructor/HOD in Pak-Korea Technology Institute (Project) vide letter dated 01.10.2014 on contract basis, till the completion of the aforesaid project. Petitioner averred that he was terminated from service vide letter No.1(12) TID/2014-TD-II dated 21.03.2016 under Clause 13 of the Terms and Conditions of Employment Contract on the allegations of withdrawing illegal pay raise in the salary on the basis of a forged letter bearing forged signature of Mr. Arafat Ahmed Qureshi, Section Officer Ministry of Textile Industry. Petitioner submitted that an Inquiry officer was appointed to probe the allegations, which opined that the subject letter is fake and

has cleverly crafted by the beneficiary to gain undue raise in the salary package and recommended termination from service of the Petitioner from the contractual post. Petitioner further submitted that he moved an application to the competent authority, by pleading his innocence and requested personal hearing on the issue involved in the matter. Petitioner further averred that Respondent-Organization vide letter No. TC/PK-GTI/(36) VIII dated 15.02.2016 directed the Petitioner to appear on 17.02.2016 for hearing before the Textile Commissioner. Petitioner stated that during the course of hearing, he proved his innocence that the said letter was received Mr. Farhatullah Shoukat, Instructor who had been assigned to work as Admin Manager, without approval of TCO or MINITEX. Petitioner continued and submitted that he has nothing to do with the said letter and denied to have forged it for illegal raise in his salary. Petitioner further averred that the period of project had been extended till completion on 30.06.2016, but petitioner was not allowed to continue on the said post. Petitioner being aggrieved by and dissatisfied with the impugned termination order dated 21.03.2016 has approached this Court.

3. Upon notice, Respondents have filed para-wise comments and denied the allegations.

4. Mr. Shaikh Liaquat Hussain, Assistant Attorney General, representing the Respondents has argued that Petitioner was appointed as an Instructor; he drew the salary of Instructor till the termination from the service. He further argued that MINITEX vide letter No. 1(12)/TID/2014-SDT dated 12.02.2016 directed for an inquiry regarding forged letter of Ministry of Textile Industry by the employees of PK-GTI for illegal rise in their salaries. The competent Authority directed Textile

commissioner for an in-depth probe and submission of report with recommendations within a week after hearing view points of the two employees including petitioner; that the Textile commissioner Investigated the matter and submitted his report along with recommendations to MINTEX, Islamabad vide letter dated 01.03.2016 along with statements of all concerned including both employees; that as per inquiry report, Section Officer Mr. Arafat Ahmed Qureshi informed Vide Letter No. 1(12)/TID/2014-SDT dated 12.02.2016 that the letter mentioned by the petitioner was forged; that the said letter had neither been issued nor signed by him and clarified his position that the letter No. F-13(11)/TID-13-III dated 05.06.2015 mentioned by the Petitioner infact was forged; that the Petitioner was terminated on the allegations of withdrawal of illegal pay raise on the basis of a letter being forged signature of Mr. Arafat Ahmed Qureshi, Section Officer; that the enquiry officer has also confirmed the details of excess payment drawn by the petitioner illegally, therefore there was no need to give petitioner personal hearing before taking action , thus his service was terminated under Clause 13 of his service contract vide order dated 15.02.2016. learned AAG supported the stance taken by the Respondents and argued that the impugned action has been taken against the petitioner in accordance with law, rules by adopting prescribed procedure, even on merit; that the Textile Commissioner took action on the application of the Petitioner dated 16.12.2016 and forwarded the application of the Petitioner vide letter No.TC/PK-GT(36)/VII dated 16.12.2015 to Dr. Irum Abdullah PD/ Principal PK-GTI for comments; that the Petitioner was afforded with personal hearing on 10.05.2016 at 11.30 am in Ministry of Textile Industry and during the personal hearing he agreed to pay the extra

amount as calculated by the Textile Commissioner office as being executing and implementing agency for the project PK-GTI; that the Section officer disowned the signature on the aforesaid letter and no any evidence brought on record by the Petitioner in his favour to discharge his burden; that MINTEX Vide letter F. No.1-3/TID-16-PC-1 dated 30.05.2016 informed TCO that the Project titled "Pak-Korea Garments Technology Institute" is going to an end on 30.06.2016 and could not be extended beyond 30.06.2016; that in pursuance of that order, the contracts of all the employees were terminated, with 30 days' notice under Clause 13 of Employee Contract vide MINTEX letter No. 1-3/TID-16-PC-1 dated 27.05.2016; that Textile commissioner constituted a committee vide letter No. TC/PKGTI(36)/XI dated 01.11.2016 comprising the officers of TCO to address the reservations of petitioner regarding reimbursement of dues; that an amount of Rs. 31473/- was received by the Petitioner on 05.09.2016 and the rest of the amount payable to the Petitioner is withheld because Principal/Project Director PK-GTI vide letter NO. PK-GTI/PROJ. DIR/04/2016 dated 27.06.2016 asked for the recovery, amounting to Rs. 1,53,396/- from the Petitioner; that the committee examined the whole case and after scrutiny of documents and personal hearing of Petitioner, submitted its report along with recommendations; that after approval of Textile Commissioner the recommendations were also forwarded to the Petitioner; that in response to the recommendations of the committee Petitioner submitted 01 Digital camera & 01 camcorder which were not in working condition, the amount against these items and Rs. 10,000/- in connection with collected fee recommended by the committee, was received by the Petitioner i.e. Rs. 69,599/- on 01.03.2017; that the Petitioner drew the

salary arrears as of Senior Instructor by forging the letter; that the drew amount of Rs. 1,56,771/- was recovered from the Petitioner for the month of Oct, 2014 to June 2015 and the Petitioner drew the salary of Instructor i.e. Rs. 55,913/-till termination and the Petitioner himself signed and stamped the bills of salary as designation of Instructor. The bill and the pay slips of the Petitioner clearly show that his designation was Instructor and not senior instructor. He lastly prayed for dismissal of the instant petition.

5. We have heard the Petitioner in person, learned Assistant Attorney General and perused the material available on record minutely with his assistance.

6. Perusal of termination order dated 21.03.2016 clearly depicts the factual position of the case that Mr. Arafat Ahmed Qureshi, Section Officer, Ministry of Textile Industry reported that two officials of PK-GTI namely Mr. Atif Hussain (Petitioner) and Ms. Farhat Qudsee, Senior Instructors have drawn illegal pay raise in their salaries by forging his signatures on a letter addressed to the Director General, Accountant General Pakistan Revenues (AGPR), Karachi. Record further reveals that no such letter was issued by the said officer. The Textile Commissioner carried out an in-depth probe in the mater and heard at length the view points of the two delinquents Mr. Atif Hussan (Petitioner) and Ms. Farhat Qudsee. The enquiry report submitted by the Textile Commissioner's Organization on 1st March 2016 confirmed that both the above named employees drew the following illegal amount of pay raise on the basis of letter bearing forged signatures of Mr. Arfat Ahmed Qureshi, Section officer, Ministry of Textile Industry.

(i) Ms. Farhat Qudsee bearing Personal No. 50215474, illegal excess amount drawn Rs. 151,180/-

ii) Mr. Atif Hussain bearing Personal No. 50215480, illegal excess amount drawn Rs. 156,771/-

8. The allegation of withdrawal of illegal pay raise on the basis of a letter bearing forged signatures of Mr. Arfat Ahmed Qureshi, Section Officer Ministry of Textile Industry have been established /confirmed through inquiry proceedings, therefore the competent authority terminated the contractual service of the Petitioner vide order dated 21.03.2016. The record reveals that excess illegal amount drawn by the beneficiaries will be adjusted in one month's pay payable under the Clause 13 of the service contract in lieu of one month's notice period as required under the service contract.

9. We have noticed that inquiry was conducted into the allegations with respect to forging the letter of Ministry of Textile Industry against the employees of PK-GTI for illegal rise in the salaries.

10. Perusal of the findings of Inquiry officer dated 01.03.2016 explicitly shows the involvement of the beneficiaries for illegal increase in their salaries without approval of the competent authority, which prima facie suggests as under:-

Findings:

06. Vide letter No. 1(12) TID/2014-SDT dated 12.02.2016. Mr. Arfat Ahmed Qureshi Section Officer has clarified that the letter No. F.13 911)/TID-III dated 05.06.2015 has neither been issued by him nor signed. Further no any record of said letter has been found in the in/out doc register of PKGTI During the scrutiny of the record another letter regarding approval of salary of appointed HODs dated 2nd June 2015 signed by Mr. Arafat Ahmed Quresh having diary No. 562 dated 03.06.2015 also seems to be fake. The copy of the letter and receiving register are at (Annex-VI-VII).

07. It shows that the subject letter is fake and has clearly been crafted by the beneficiary of the letter. The contents of the letter match with the language and format of the letters received from Ms. Farhat Qudsee time to time. She always writes in her letter "copy of information" while the letter received from MINTEX are written as "copy for information" copy of both

letters are at (Annex-VIII-IX). The pay slips for the month of June 2015 shows that the HODs have drawn the salaries along with arrears from the date of appointment till June 2015 copy of both HODs slips is at (Annex-X-XI). The details of excess payment drawn by both HODs are as under:-

- a) Ms. Farhat Qudsee bearing personal No. 50215474 drew amount Rs. 1,51,180/-
- b) Mr. Atif Hussain baring personal No. 50215480 drew amount Rs. 156771/-

Recommendations:-

- i) The amount from beneficiaries should be recovered and the case may be forwarded to some government agency like FIA for investigation.
- ii) The beneficiaries have used a forged document for the purpose of their personal benefits which is a criminal act and a gross violation of rules and regulations they may be held accountable treated with major punishment.
- ii) They should be terminated from service on one month's notice in favour/interest of the institute.

08. This issue with the approval of Textile Commissioner.

(Kafeel Ahmed)
Assistant Director

11. The Inquiry proceedings, prima-facie suggesting that the allegations against the Petitioner and beneficiaries were inquired and established by proper evidence. And, in the light of evidence, proper findings were given by the Inquiry officer mentioned (Supra).

12. Apparently, the Respondent-Organization while dispensing with service of the Petitioner has followed the relevant procedure and the Rules and Regulations pertaining to the service issues of its employees.

13. The record placed before us is showing that the Petitioner was confronted with the relevant record besides full opportunity to rebut the allegations but, he failed to discharge his burden. Hence, the proceedings were concluded and Petitioner was found involved, and under Clause 13 of the Service Contract of the Petitioner his service was rightly dispensed with by the competent authority.

14. This being the position, we are of the view that there are severe allegations of fraud and forgery against the Petitioner and others, which

is violation of discipline, which amounts misconduct on the part of the Petitioner, therefore, at this juncture no premium can be given to the Petitioner. Apparently we do not see malice on the part of Respondent-Organization to falsely implicate the Petitioner in the charges.

15. In the light of above legal position, the Respondent-Organization is competent to terminate the contractual service of the Petitioner. Therefore contention of the Petitioner that the Respondent-Organization is not competent to terminate the service of the Petitioner is untenable hence, discarded. The above proposition is already settled by the Hon'ble Supreme Court in the case of Khaliq Dad Vs. Inspector General of Police and others (2004 SCMR 192).

16. Record further reflects that the project titled Pak-Korea Garments Technology Institute and its period has not been extended beyond 30.06.2016 by the Competent Authority, and in pursuance of that order, the contract of all the employees was terminated on 27.05.2016, besides Petitioner admitted to have returned the articles as well as excess salary received by him on account of preparation of forged letter of payment of salary in his favour.

17. Considering the case of the Petitioner in the above perspective, we find no merit in the instant petition. We conclude that there is no illegality, infirmity or material irregularity in the impugned Order dated 21.03.2016 passed by the Respondent-Organization. Consequently, the instant Petition is dismissed along with listed application(s).

JUDGE

JUDGE