

IN THE HIGH COURT OF SINDH, AT KARACHI

Present:-

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

C.P No.D-1323 of 2012

Mst. Nikhat Yasmin.....Petitioner

Versus

Pakistan International Airlines & others..... Respondents

Date of hearing 30.10.2018

Mr. Sher Ali Rizvi, Advocate for the Petitioner.
Mr. Aamir Malik Advocate for Respondents.

J U D G M E N T

ADNAN-UL-KARIM MEMON, J:- The Petitioner has approached this Court for seeking implementation of the order dated 08.07.2004 passed by the Hon'ble Supreme Court of Pakistan in Civil Petition No. 547-K of 2003. (re-Nikhat Yasmin vs. Pakistan International Airlines and others).

2. Mr. Sher Ali Rizvi, learned counsel for the Petitioner has submitted that the Petitioner stood retired from the Respondent-PIAC and received her retirement benefits in compliance with the directions issued by the Hon'ble Supreme Court of Pakistan in the aforesaid matter, however she claims further amount on the basis of seniority and promotion of the Petitioner. He next contended that the Petitioner at the time of passing of the aforesaid order was at serial No.10 and at the time of her retirement she was shown at serial No. 195 of the seniority list, prepared by the Respondent-PIAC. Per learned counsel the same is not in accordance with the terms of the aforesaid order, which needs to be implemented in its letter and spirit.

3. Conversely Mr. Aamir Malik, learned counsel for Respondent-PIAC has refuted the claim of the Petitioner and referred to a statement dated 28.02.2014 filed on behalf of Respondent PIAC and argued that the payment of back benefits in the terms of the order of Hon'ble Supreme Court of Pakistan has already been granted to the Petitioner and there is nothing left on their part to be paid to the Petitioner. Per learned the Petitioner has received her retirement dues on 15.10.2004 without protest and no further claim was filed by her, however she filed the instant petition on 09.04.2012 after lapse of 8 years, thus she is not entitled for any relief from this Court.

4. Prima facie, this is a simple issue of back benefits in terms of the order passed by the Hon'ble Supreme Court of Pakistan as discussed supra. We, on the basis of contentions of the parties with the material produced before us, have reached to the conclusion that whether the Petitioner upon her reinstatement from the date of her termination has received the back benefits?

5. The order dated 23.06.2005 passed by the Hon'ble Supreme Court of Pakistan is very clear in its terms. An excerpt of the same is reproduced:-

“For the aforesaid facts, circumstances and reasons we convert this petition into appeal, allow the same, set aside the impugned judgment of the Tribunal as well the order dated 18.12.2002 and direct reinstatement of the Petitioner from the date of her termination will all back benefits within a period of 30 days from today. A copy of the judgment shall be sent to the Managing Director of the respondent-Corporation by name so that he is apprised of the situation prevailing in the Corporation and for taking appropriate remedial measures that may be warranted in the interest of smooth and transparent administration.”

6. Prima facie, the record reflects that the Petitioner was reinstated in service vide letter dated 16.08.2004 and promoted from PG-V to PG-VI as Flight Purser w.e.f. 01.06.2008. Record further reflects that the Respondent-PIAC prepared working paper

for the dues of the Petitioner with effect from 07.09.2000 to 31.08.2004 on her reinstatement as per the directives of the Hon'ble Supreme Court of Pakistan as discussed supra, which she received on 15.10.2004 without any protest, now at this juncture she claims certain more amount. At this stage the Respondent-PIAC has refuted the claim of the Petitioner and attempted to justify their stance in the following manner:-

“ a) That such list pertain to such employees who are working in PG-VI in the year 2004 and are due to promotion in the next grade. Since the petitioner was working in PG-V in the year 2004, the question of inclusion of her name does not arise in the list for 2004.

b). That list (annexure G-1) is fictitious for the reason that it indicates the future date of promotion which cannot be assumed and foreseen. The column of promotion date indicates the date on which the employees was promoted in the existing pay group.

c). That the Petitioner is at Serial No. 171 as on today in the seniority list of the employee of PG-VI. All of the persons/employees whose names have been shown before the name of the petitioner are senior to her in length of service in PG-VI. A copy of the list annexed as “B”

7. In view of the foregoing, we are of the considered view that the basic object of the Petitioner has already been redressed and upon her reinstatement she received her due amounts as per her satisfaction on 15.10.2004. In such circumstances of the case, we do not see any violation of the order dated 23.06.2005 passed by the Hon'ble Supreme Court of Pakistan in her case; therefore the further claim of the Petitioner cannot be granted by this Court while exercising its Constitutional jurisdiction, since in our view, as per the statement filed by the Respondent, all the legal dues of the Petitioner have been granted to her in letter & spirit of the Judgment of the Hon'ble Supreme court of Pakistan and the issue of further claim is nothing but an afterthought on her part not germinating from the order of the Hon'ble Supreme Court .

8. In the light of above discussion, the instant petition merits no consideration and the same is dismissed along with pending application(s) with no order as to costs.

JUDGE

JUDGE

Shafi Muhammad P.A