

Order Sheet
IN THE HIGH COURT OF SINDH KARACHI
Constitutional Petition No. D –6200 of 2020

Before:

Mr. Justice Nadeem Akhtar

Mr. Justice Adnan-ul-Karim Memon

Syed Mehdi Hassan

Versus

Federation of Pakistan and 02 others

Date of hearing & order : 07.12.2020

Mr. Ghulam Sarwar Chandio, advocate for the petitioner.

ORDER

ADNAN-UL-KARIM MEMON, J. Through the instant petition, the petitioner has impugned the office order dated 01.10.2020 issued by the Deputy Director (Admin), Regional Directorate, Anti-Narcotics Force Sindh, whereby he was relieved from his duties with direction to report Regional Directorate Anti-Narcotics Force North (Rawalpindi) on 19.10.2020.

2. Mr. Ghulam Sarwar Chandio, learned counsel for the petitioner, has argued that previously he assailed his transfer order dated 01.08.2019 issued by the respondents before the learned Federal Service Tribunal Karachi Bench (FST) by filing Service Appeal No.157 (K) CS / 19, which was disposed of vide order dated 13.12.2019 with direction to the respondent-force to decide his departmental appeal within two (02) months, however, the same has yet not been decided. Per learned counsel, he preferred an application under Rule 23-A of the Service Tribunals (Procedure) Rules 1974 before the FST for the execution of the aforesaid order and later on the learned Deputy Registrar of FST vide order dated 16.10.2020 informed that his matter could not be proceeded due to non-availability of the Bench at Karachi, hence, immediate indulgence of this Court is required otherwise the case of the petitioner filed before FST against respondents 2 & 3 would become infructuous rendering the petitioner remediless for the time being. It is urged that the matter between the parties was / is about transfer and posting based on wedlock policy, which policy is recognized by the Hon'ble Supreme Court of Pakistan in its various pronouncements. He prayed for allowing the instant petition.

3. We have heard learned counsel for the petitioner on the subject issue. In our tentative view, this Court can intervene in the matter in the light of observations of the Hon'ble Supreme Court rendered in the cases of Malik Nazar Hussain V/S National Bank of Pakistan, 2004 SCMR 28, and an unreported order dated 17.07.2017 passed by the Hon'ble Supreme Court in C. P. No.153-K/2017 (Safdar Yousuf and others V/S Federation of Pakistan and others).

4. Without touching the merits of the case, we may observe that the learned Registrar of FST vide order dated 16.10.2020 informed the petitioner that his matter could not be proceeded due to the non-availability of the bench. Prima-facie his matter on the subject issue is still subjudice before the learned FST, which is presently not available at Karachi to adjudicate the matter of petitioner. This being the position of the case, we deem it appropriate to direct learned FST to decide the application under Rule 23-A of the Service Tribunals (Procedure) Rules 1974 of the petitioner within sixty (60) days from the date of receipt of this order in accordance with the law. Meanwhile, operation of the impugned office order dated 01.10.2020 shall remain suspended.

5. The instant petition stands disposed of in the above terms along with the pending application(s) with no order as to costs.

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Shahzad*