

# IN THE HIGH COURT OF SINDH, AT KARACHI

Present:

Mr. Justice Muhammad Shafi Siddiqui  
Mr. Justice Adnan-ul-Karim Memon

**C.P No.D-1242 of 2020**

Abdul Shakoor

Versus

Province of Sindh and 02 others

Date of hearing  
& decision : 15.02.2021

Syed Asad Ali Shah, advocate for the petitioner.

## **ORDER**

**ADNAN-UL-KARIM MEMON,J:-** Through the instant Petition, the Petitioner is asking for setting aside of his termination from service order dated 06.05.2019 issued by the Principal Baqai Cadet College, Karachi.

2. Brief facts of the case are that Petitioner was appointed as Sindhi Language Teacher in Baqai Cadet College Karachi (a subsidiary of Baqai Foundation), on a contract basis for one year vide order dated 01.08.2007 issued by Principal Baqai Cadet College, Karachi. It is added by the Petitioner that the contract period of the petitioner was extended from time to time and continued till May 2019, when the respondent-college through the letter dated 12.05.2019 dispensed with his service without Show Cause Notice and proper inquiry, which violates Baqai Cadet College Rules & Regulations. Petitioner being aggrieved by and dissatisfied with the Impugned Termination Order preferred the departmental appeal with the Principal Baqai Cadet College, Karachi vide letter dated 17.10.2019 (page 37), which was not attended, compelling him to approach this Court.

3. Syed Asad Ali Shah, learned counsel for the petitioner, argued that the termination order issued by the Principal Baqai Cadet College, Karachi is in deviation of Rules & Regulations; that he was condemned unheard, while passing the Impugned Order, no Show Cause Notice was issued, no inquiry was conducted, no personal hearing was given to him; that Impugned Order has been issued to the Petitioner in respect of charges, viz., incompetency, weak performance and poor discipline as well as involvement in politicizing the institution, without hearing him is in violation of Article 10-A of the Constitution; that though the respondent-college is a private cadet college, however, all actions of the concerned authority are amenable under Article 199 of the Constitution; that he has been discriminated just to accommodate their blue-eyed person as Sindhi Language Teacher; that impugned order is against the principle of natural justice; that he submitted Departmental Appeal against the

impugned action before the competent authority, but his request was not acceded to with any reason. He further argued that the petitioner is/was the permanent workman and his case falls within the ambit of Sindh Industrial Relations Act, 2013. He further argued that the petitioner has sufficient length of service, therefore, he ought not to have been knocked out on technical grounds without adopting the legal procedure laid down under the Terms of Employment (Standing Orders) Act, 2015. He lastly prayed for allowing the instant Petition.

4. We have heard the learned counsel for the petitioner on the maintainability of the instant petition and perused the material available on record.

5. We have noted that the Baqai Cadet College is a subsidiary of the Baqai Foundation and a body corporate having complete private status. The Rules and Regulations of Baqai Cadet College are not statutory, thus the ratio of the judgments passed by the Hon'ble Supreme Court of Pakistan in the cases of Pakistan Defense Housing Authority Vs. Lt. Col. Javaid Ahmed (2013 SCMR 1707), Anwar Hussain v. Agricultural Development Bank of Pakistan (PLD 1984 SC 194), Aitcheson College, Lahore through Principal v. Muhammad Zubair (PLD 2002 SC 326), Pakistan International Airlines Corporation and Others Versus Tanweer –ur- Rehman and others (PLD 2010 SC 676), Abdul Wahab and others v. HBL and others (2013 SCMR 1383), Shafique Ahmed Khan and others Versus Nescom and others (PLD 2016 SC 377), are fully attracted in the case of the petitioner, thus we do not find violation of any statutory rules of respondent-cadet college for the reason that initially, he was appointed on a contract basis, which expired by efflux of time and/or the extended period at the choice of employer, however, his service was later on dispensed with due to inefficiency, weak performance, and poor discipline, more particularly his involvement in politicizing the institution, which are serious allegations cannot be probed under Article 199 of the Constitution. It is a well-settled principle of law that the appointment on contract and its subsequent expiration on the aforesaid charges cannot be threshed out through these proceedings and the petitioner cannot be ordered to be reinstated in service in absence of statutory rules of service. Resultantly, this Petition is not maintainable under Article 199 of the Constitution. Consequently, the Constitutional Petition is dismissed in *limine* along with the pending application(s) with no order as to costs. However, the petitioner is at liberty to approach the proper forum for redressal of his grievance under law.

JUDGE

JUDGE