

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
CP. No. D- 1559 of 2022
(Nazar Muhammad and another v. The Federation of Pakistan and another)

Date _____ Order with Signature(s) of Judge(s) _____

Fresh Case

1. For order on Misc No.7023/2022
2. For order on office objection no.18 & 22
3. For order on Misc No. 7024/2022
4. For order on Misc No. 7225/2022
5. For hearing of main case

14.03.2022

Mr. Malik Altaf Hussain, advocate for the petitioners

1. Urgency granted.
2. Deferred for the time being.
3. Granted subject to all just legal exceptions.
- 4-5. The petitioners were appointed as Inspector in the Intelligence Bureau in the year 1996, however, their services were dispensed within the year 1997. The petitioners obtained the protection of the Sacked Employees (Reinstatement) Ordinance, 2009, became the Act of Parliament in 2010. It is, inter alia, contended that the petitioners were relieved from their duties vide notification dated 30.8.2020 in pursuance of the judgment dated 17.8.2021 passed by the Hon'ble Supreme Court of Pakistan in Civil Appeal No.491/2021 and others. Per learned counsel, the Hon'ble Supreme Court in the case of *Hidaytullah and others v. Federation of Pakistan and others*, **PLD 2022 SC 64**, has held in paragraph 2(1) to (iv) as under:

- i. *Employees who were holding posts that on the date of their initial termination of service (from 01.11.1996 to 12.10.1999) did not require any aptitude or scholastic or skill test, for appointment thereon, shall be restored from the date of the judgment under review to the posts they were holding on the same terms and conditions of service applicable on the date of their termination pursuant to the judgment under review.*
- ii. *Such other employees who were holding posts that on the date of their initial termination of service (from 01.11.1996 to 12.10.1999) required the passing of any aptitude or scholastic or skill test, for appointment thereon shall from the date of the judgment under review be restored to their said posts on the same terms and conditions of service applicable on the date of their initial termination.*
- iii. *Any improvement in the terms and conditions of service of all the restored employees shall be granted strictly in accordance with the laws and rules applicable to their service or employment and in the absence thereof by regulations laid down for this purpose by their respective employers.*
- iv. *The relief granted in sub-paragraphs (i) and (ii) above shall not be granted to employees whose initial termination of service (from 01.11.1996 to 12.10.1999) was on grounds of absence from duty, misconduct, corruption, misappropriation of money/stock or unfitness on medical grounds if such termination was not set aside finally by a Court of law.*

Per learned counsel, the case of petitioners falls within the ambit of aforesaid paragraphs and similar treatment is required to be given to him.

At this stage, we asked the learned counsel as to how this petition is maintainable in the light of the ratio of the order passed by the Hon'ble Supreme Court of Pakistan in the case of Hidayatullah supra whereby review petitions were dismissed as the impugned legislation namely the Sacked Employees (Reinstatement) Act, 2010 has been held to be violative of, inter alia, Articles 25, 18, 09 and 4 of the Constitution of the Islamic Republic of Pakistan, 1973 and therefore, void under the provisions of Article 8 of the Constitution. He replied to the query and has submitted that the Hon'ble Supreme Court of Pakistan while exercising the powers under Articles 184 (3) and 187 of the Constitution granted relief to the employees in terms of para 2(i) to (iv) and the petitioners seek similar treatment which is in line with Article 187 (2) of the Constitution. If this is the position of the case, subject to the maintainability of this petition, let notice be issued to the respondents as well as to AAG for **28.03.2022** with directions to file comments on or before the next date of hearing.

JUDGE

JUDGE

Nadir/PA