

*Order Sheet*  
**IN THE HIGH COURT OF SINDH KARACHI**

Before:

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

**Constitutional Petition No. D –792 of 2013**

Faique Ali

*Versus*

Province of Sindh and 03 others

Date of hearing &  
Order : 11.03.2021

Petitioner present in person.

Mr. Taha Soomro holding brief for Mr. Shahab Usto, advocate for respondents 2 to 4.

Mr. Ali Safdar Depar, AAG.

**ORDER**

**ADNAN-UL-KARIM MEMON, J.** - Through the instant Petition, the Petitioner has impugned his termination of the contract dated 04.02.2013 issued by the Sindh Revenue Board, Government of Sindh (**SRB**).

2. Brief facts of the case are that Petitioner was appointed in SRB on 29.12.2011 as Senior Auditor, on a contract basis for twelve months, which was continued till the date of his termination of contract on 4.2.2013. Per petitioner, his contract was unilaterally terminated without show-cause notice. He claims that he was not given an opportunity of personal hearing on the issue involved in the matter and the incompetent authority of Respondent-SRB took the ex-parte decision against him.

3. At the outset, we asked the petitioner to satisfy this Court about the maintainability of this petition. Petitioner who is present in person has submitted that the termination of contract issued by Respondent-SRB was in gross violation of law; that he had illegally been removed from service upon false accusations and by stigmatizing his personality; that he had been condemned unheard and removed from service without holding proper inquiry into the allegations leveled against him, which is unwarranted under the law; that the act of Respondent-SRB was/is based on malafide intention and personal ego; that he though appointed on contract basis, was/is entitled to a fair opportunity to clear his position in terms

of Article 4, 10-A and 25 of the Constitution of Islamic Republic of Pakistan 1973; that this Court has jurisdiction to interfere in the matters involving denial of such rights of citizens of this Country by the State Functionaries; that if the termination of contract conveys a message of a stigma the employee cannot be ousted from service without resorting to the procedure as provided under the law. He further submitted that his service was terminated just before the regularization of all contract employees under The Sindh Revenue Amendment Act, 2012. In support of his contentions, he relied upon notifications dated 04.12.2012 & 04.02.2013, letter dated 29.12.2011, Gazette notification dated 1.3.2013, the notification dated 09.4.2013, the budget letter issued by the Finance Department, and minutes of the meeting constituted for regularization of the employees of SRB held on 30.04.2013 and 05.05.2013; and, submitted that the impugned termination letter signed by the Deputy Commissioner/respondent No.4 who was not competent to terminate his service however that was done without lawful authority; that the respondents had misused their power and authority by terminating his contractual service which was likely to be confirmed as per minutes of the meeting as discusses supra. He prayed for setting aside the impugned termination letter dated 4.2.2013 being illegal, void ab-initio, and without jurisdiction. He lastly prayed for allowing the instant Petition as prayed.

4. We have heard petitioner who is present in person on the issue of maintainability of the instant petition under Article 199 of the Constitution.

5. We have perused the termination of the contract letter dated 04.02.2013 of Petitioner, which is a contractual appointment for a limited period. The record does not reflect that the service of the Petitioner was regularized by the Respondent-SRB. We are of the view that such an appointment would be terminated on the expiry of the contract period or any extended period on the choice of Employer or Appointing Authority. The case of the Petitioner is governed by the principle of Master and Servant, therefore, the Petitioner does not have any vested right to seek reinstatement in service. It is well-settled law that contract employees cannot claim any vested right for reinstatement in service. Reverting to the claim of the Petitioner that he has been condemned unheard by the Respondent-SRB on the allegations, the record reflects that though the Petitioner was a contract employee and under the law, an opportunity of Show Cause can only be issued to the employee, who is holding a permanent post, whereas the record does not reflect that the Petitioner was a permanent employee of Respondent-SRB, therefore in our view the Petitioner cannot claim vested right to be reinstated in service. It is well-settled law that the service of

temporary employees can be terminated on 14 days' notice or pay in lieu thereof, whereas in the present case petitioner claims revival of the contract through reinstatement in service, which factum cannot be thrashed out in writ jurisdiction.

6. Prima-facie, the contract of the petitioner does not envisage the condition of regularization/confirmation of service. In the present case, there is no material placed before us by which we can conclude that Impugned termination of the contract has been wrongly issued by Respondent-SRB.

7. The Petitioner has failed to establish that he has any fundamental/vested right to remain on the temporary/contractual post. Therefore, the submissions of the Petitioner that he was not heard before the issuance of the Impugned letter dated 04.02.2013 is not tenable in the eyes of law. Adverting to the other grounds raised by the petitioner, suffice it to say he accepted his post with certain terms and conditions of his service, as such he is precluded under the law to claim extension/reinstatement and/or regularization of his contractual service, the reasons discussed supra are sufficient to discard his point of view.

8. The views expressed by us in the preceding paragraphs are fortified by the following authoritative pronouncements of the Hon'ble Supreme Court:

- i. Government of Baluchistan V/S Dr. Zahida Kakar and 43 others, **2005 SCMR 642**.
- ii. Dr. Mubashir Ahmed V/S PTCL through Chairman, Islamabad, and another, **2007 PLC CS 737**.
- iii. Abid Iqbal Hafiz and others v. Secretary, Public Prosecution Department, Government of the Punjab, Lahore, and others, **PLD 2010 Supreme Court 841**
- iv. Federation of Pakistan v. Muhammad Azam Chattha, **2013 SCMR 120**
- v. Muzafar Khan & others V/S Government of Pakistan & others, **2013 SCMR 304**
- vi. Abdul Wahab and others v. HBL and others, **2013 SCMR 1383**
- vii. Chairman NADRA, Islamabad through Chairman, Islamabad and another v. Muhammad Ali Shah and others, **2017 SCMR 1979**
- viii. Qazi Munir Ahmed Versus Rawalpindi Medical College and Allied Hospital through Principal and others, **2019 SCMR 648**
- ix. Raja Iviz Mehmood and another v. Federation of Pakistan through Secretary M/o Information Technology and Telecommunication and others, **2018 SCMR 162**
- x. Maj. (R) Syed Muhammad Tanveer Abbas and other connected Appeals, **2019 SCMR 984**.
- xi. Unreported order dated 13.03.2019 passed by the Hon'ble Supreme Court in C.P. No.2792/2018 and other connected petitions
- xii. Province of Punjab through Secretary Agriculture Department, Lahore, and others Vs. Muhammad Arif and others, **2020 SCMR 507**.

xiii. Miss Naureen Naz Butt vs Pakistan International Airlines and others, 2020 SCMR 1625.

xiv. M/S Sui Southern Gas Company Limited v. Zeeshan Usmani etc. and Saima Akhtar etc vide judgment dated 18.02.2021 passed in Civil Appeal No.936 & 937/2020.

9. In view of the foregoing, the Constitutional Petition in hand is not maintainable, hence, is dismissed along with the pending application(s) with no order as to cost.

10. These are the reasons for our short order dated 11.3.2021 whereby we have dismissed the instant petition.

Dated: 11.3.2021

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