IN THE HIGH COURT OF SINDH, KARACHI

C. P. No. D-1173 / 2022

Date	Order with signature of Judge

Present: ***Mr. Justice Muhammad Junaid Ghaffar***
Mr. Justice Agha Faisal

Petitioner:	**Barkat Ali Jan Jatoi, Through Mr. Sikandar Ayoub Khaskheli, Advocate.**
Respondent No. 1:	**Federation of Pakistan Through Mr. Muhammad Nishat Warsi DAG.**
Respondent Nos. 2 & 3:	**SSGC Limited & Another, Through Mr. Mukesh Kumar G. Karara a/w Mr. Nabi Bux Leghari, Advocates.**

1) For orders on office objection.
2) For hearing of CMA No. 5306/2022.
3) For hearing of main case.

Date of hearing: **11.08.2022.**

Date of Order: **11.08.2022.**

O R D E R

Muhammad Junaid Ghaffar, J: Through this Petition, the Petitioner has challenged his dismissal order dated 22.02.2022 passed by Respondents No. 2 & 3 i.e. Sui Southern Gas Company Limited (SSGCL). Today, at the very outset, learned Counsel appearing on behalf of SSGCL has placed on record Judgment dated 01.03.2022 passed by the Hon'ble Supreme Court in Civil Appeal No. 1477 of 2021 (***Sui Southern Gas Company Limited v Saeed Ahmed Khoso and another***) and submits that no writ is maintainable against SSGCL in respect of terms and conditions of service and its employees. He submits that the Petition is liable to be dismissed. While confronted, Petitioner's Counsel has not been able to satisfactorily respond and submits that he intends to distinguish the said Judgment and some time may be given; however, we are not inclined to agree with his contention inasmuch as the Petitioner has obtained ad-interim order since filing of this Petition, whereas, the controversy has been decided by the Hon'ble Supreme Court therefore it would be highly inappropriate to grant any further adjournment and continue the injunction.

2. We have heard the learned Counsel for the Petitioner and Respondents on the point of maintainability. The Hon'ble Supreme Court

in the case as above, as relied upon by the Respondent's Counsel has been pleased to hold as under:-

> "5. We have heard the learned Counsel for the parties and gone through the record. The only question requiring determination by this Court is whether or not the High Court correctly exercised the jurisdiction under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973. It is settled law by this court that where employment rules are non-statutory in nature, the relationship of employer and employee is governed by the principle of master and servant. The learned ASC for the Respondent does not contest, neither that the rules governing terms and conditions of employment of the Respondent are non-statutory nor that ordinarily the principle of master and servant would apply in governing the relationship between the employer and the employee. However, he has attempted to draw a distinction between the Companies owned by the Federal Government and the companies registered under the Companies Ordinance, 1984 / Act, 2017 which have private shareholders to argue that where the State has a stake in the company then it has to be treated on a different footing and its rules are to be treated as statutory in nature. In this context, he has relied upon the judgments of this court reported as Muhammad Rafi v. Federation of Pakistan (2016 SCMR 2146) and Pakistan Defence Offices Housing Authority v. Itrat Sajjad Awan (2017 SCMR 2010).
>
> 6. Having gone through the aforenoted judgments, we find that the said judgments relate to the Securities and Exchange Commission of Pakistan, the Civil Aviation Authority and the Defence Housing Authority. There is a clear distinction in the treatment of statutory Bodies and the Corporations as opposed to the limited companies. Consequently, we are not impressed by the argument of learned counsel for the Respondent that a Company in which the Government has a shareholding is to be treated at par with statutory Corporations and Authorities.
>
> 8. Further, the learned High Court has unfortunately not noticed three judgments of this Court noted in paragraph 5 above which directly relate to the questions in hand and has instead relied on general principles of law relating to statutory corporations and authorities which were clearly not attracted to the facts and circumstances of the case. The argument of the learned counsel that the Respondent was entitled to due process where his civil rights were to be determined may could have substance. However, in the instant case, only question before us is which forum was available to him in the facts and circumstances of the case before which the rights claimed by the Respondent be asserted. The instant case, we are in no manner of doubt that such forum was not the High Court in exercise of its constitutional jurisdiction under Article 199 of the Constitution."

3. Apparently, the Petitioner's case is fully covered by the aforesaid Judgment and therefore, no exception can be drawn regarding maintainability of this Petition. In view of hereinabove facts and circumstances of this case, the Petition is not maintainable; hence, the same is hereby dismissed. However, the Petitioner is at liberty to avail any other remedy as may be available in accordance with law.

J U D G E

J U D G E

Arshad/