

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
Suit No.855 of 2015

[Sajid Hussain v. Pakistan International Airlines Corporation & others]

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| DATE | ORDER WITH SIGNATURE OF JUDGE(S). |
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1. For hearing of CMA No.6346/2022 (U/S 151 CPC).
2. For hearing of CMA No. 6347/2022 (U/S 151 CPC).

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Dated 27.09.2022

Mr. Muhammad Ramzan Tabassum, Advocate for plaintiff.

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1. This suit for declaration/injunction and damages was filed against a show cause notice dated 06.05.2015 containing accusation against plaintiff that during the course of his employment plaintiff submitted a copy of B-com degree under seat No.6736, of the Annual examination 1995, issued by the University of Karachi. On verification by employer it was found “FORGED”.

2. Reply of the show cause was made which, apart from describing his activities during course of his employment, defended the accusation that he was employed on the basis of his matriculation certificate but was promoted through departmental course and qualification and that he did not submitted forged degree.

3. On 23.05.2015 plaintiff was ordered in this suit to appear before enquiry officer, however, was not allowed to pass final orders for his termination, perhaps in view of the pendency of application.

4. On 16.09.2019 the court observed that it was not appropriate to interfere in the inquiry proceedings and for any adverse order, he would seek appropriate remedy under the law. The order was challenged in HCA No.289/2019. During proceedings, another event

took place and this time it was his dismissal vide dismissal order/ letter dated 12.11.2019. HCA was then dismissed on 10.09.2020, initial cause via a show-cause met the fate and now a remedy, if any, may be followed. Remedy in the wisdom of plaintiff is a misc. application under consideration i.e. the dismissal order be suspended, as prayed in one of the listed applications.

5. Scope of this suit was confined to a show cause which met the logical end and i.e. dismissal from service. This event of dismissal is a fresh cause triggered belatedly on 12.11.2019 when plaintiff was dismissed from service.

6. Neither the scope of the suit could be extended nor any amendment could be a logical solution since such amendment would change the complexion of the suit altogether. Initially this suit was against a show cause, which too is not maintainable¹ and now on a fresh cause of dismissal which is different altogether, complexion of suit cannot be changed. Additionally, order dated 16.09.2019 concludes that against any adverse order such as dismissal he may avail statutory remedy under service regulations.

7. It is also settled law that when main grievance i.e. accusation was not found to be false, the claim of damages which is dependent upon false allegation and accusation which is culminated into his dismissal cannot be granted. So the cause was neither matured at the relevant time nor is logically justified in view of a logical end of show cause. In case he attempt to avail remedy against his dismissal under service regulation of employer and succeed, it may then only matures as a cause to claim damages.

¹ 2022 SCMR 92 (Commissioner Inland Revenue v. Jahangir Khan Tareen)

8. Lastly in CMA No.6347/2022 plaintiff prayed that his appeal against dismissal be decided, which he preferred. Needless to observe that plaintiff be given fair opportunity in the appeal by the appellate forum under service regulations, if any, if such appeal is preferred and is pending adjudication.

9. Nothing is left in the suit to adjudicate; show cause having served its purpose; claim of damages being immature and without cause; even otherwise it was raised to avail pecuniary jurisdiction of this court, hence, suit is dismissed along with pending applications.

JUDGE

Ayaz Gul