

IN THE HIGH COURT OF SINDH AT KARACHI

Present:
Muhammad Junaid Ghaffar, J.
Agha Faisal, J.

C P D 3986 of 2021 : Mansoor Ahmed vs. Director General of
Pakistan Coast Guard & Another

For the Petitioner : Mr. Ali Asghar, Advocate

For the Respondents : Mr. Ali Tahir, Advocate
Mr. M. Hashim, Advocate

Date/s of hearing : 18.10.2022

Date of announcement : 18.10.2022

ORDER

Agha Faisal, J. The petitioner has sought to be allowed to perform his duties with the Pakistan Coast Guard and at the same time seeks reinstatement, if dismissed from service¹. The petitioner has himself placed on record an order dated 21.12.2019, whereby he was compulsorily retired; however, the said order has *not* been impugned before us.

2. Per petitioner's counsel, even though the petitioner had failed to impugn his removal order, rendered almost two years prior to the institution hereof, yet this Court ought to exercise its writ jurisdiction and allow the petition in reliance upon Article 10A of the Constitution. It may be noted that the aforesaid was the sole plea articulated by the petitioner's counsel.

3. The respondent's counsel submitted that the petitioner was subject to the Pakistan Army Act 1952, by virtue of section 8 of the Pakistan Coast Guards Act 1973; hence, the jurisdiction of this Court was unmerited per Article 199(3) of the Constitution². It was submitted that recourse to writ jurisdiction was inappropriate in the presence of an adequate statutory remedy, in the present case being available vide section 13 of the Pakistan Coast Guards Act 1973. It was also sought to be demonstrated that the petition was even otherwise barred by *laches*.

¹ Per the prayer clause.

² 2018 PLC CS Note 85; Unreported order of a Division bench of this Court dated 03.02.2022 in CP D 5391 of 2021.

In so far as the factual aspect was concerned, it was shown from the record that the petitioner had been accused to taking bribes from all the poor fisher folk seeking ingress and egress from the port. The record was adverted to in order to demonstrate that the petitioner was removed from service after completion of an entire inquiry process, at the conclusion whereof the petitioner was found culpable.

4. Heard and perused.

5. It is imperative to record that the petitioner's counsel made no effort to contradict the factual narrative / corroborating documentation relied upon by the respondents, either through a rejoinder or even in arguments. The demonstrated presence of inquiry proceedings, affording ample opportunity to the petitioner to state his case, was also not denied before us. The petitioner's counsel's plea to re-evaluate the evidence could not be sustained by this Court as such an exercise ought not to be conducted in writ jurisdiction. It must be observed that while the pertinent facts / record have not been denied by the petitioner, yet the same were never disclosed by the petitioner in the pleadings; such active concealment cannot be appreciated by this Court.

6. The petitioner stood removed from service in 2019, yet did not approach this Court till 2021. The petitioner's counsel took no effort to even attempt to displace the bar of *laches*. The presence of an alternate statutory remedy was also demonstrated before us, however, once again the petitioner's counsel made no endeavor to explain why the said remedy / forum was abjured.

7. In view hereof, we are constrained to observe that no case has been set forth to entertain this matter in the writ jurisdiction of this Court, hence, this petition was dismissed vide our short order announced in Court earlier today upon conclusion of the hearing. These are the reasons for our short order.

JUDGE

JUDGE