

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Constt. Petition No. D-1715 of 2023

Petitioner : SIP Zaheer Hussain, through Achar
Khan Gabole, Advocate.

Respondents : Nemo.

Date of hearing : 23.11.2023

ORDER

YOUSUF ALI SAYEED, J. - The Petitioner is serving as a Sub-Inspector in the Sindh Police Department, and is admittedly a Civil Servant. He and six other persons who are similarly placed were issued Show-Cause Notices dated 13.11.2023 in respect of disciplinary proceedings initiated in terms of the Sindh Police, Efficiency and Discipline Rules 1988, and had previously sought to impugn such Notices while invoking the jurisdiction of this Court under Article 199 of the Constitution through Constitutional Petition No. D-1673 of 2023.

2. However, as it transpires, upon being queried regarding the bar under Article 212 of the Constitution, the scope of that earlier challenge had been confined to a point of procedural fairness. That Petition was thus disposed of vide an Order dated 21.11.2023, which reads as follows:

“On the previous date, it had been alleged on behalf of the Petitioners that a copy of the Enquiry Report dated 31.10.2023 bearing No.R/CR/-5692-93/2023, as referred to in the impugned Show Cause Notices dated 13.11.2023, had not been provided to them, hence they were handicapped in making any effective response. The scope of the Petition was circumscribed in such terms, with notice being issued to the Respondents in the matter accordingly. In response, a Statement has been submitted today under the signatures of the AAG, enclosing the comments of the Respondent No.3 along with various documents,

including copy of the aforementioned Enquiry Report. A copy of Statement and its annexures has been provided to learned counsel for the Petitioner. In view of the foregoing, the Petition has served its purpose and stands disposed of with the observation that the Petitioners may submit their respective replies to the relevant Show Cause Notices within five days, whereafter the proceedings may be continued to their logical conclusion.”

3. Be that as it may, the Petitioner has nonetheless once again come forward so as to challenge the Show-Cause Notice in tandem with the Enquiry Report, with it being prayed *inter alia* that this Court be pleased:

“(a) To declare that the impugned (one sided) inquiry report dated 31.10.2023 conducted/completed by respondent No.5 in a single/one day and the impugned show cause notice dated: 13.11.2023 issued thereupon to the petitioner are illegal, unlawful, null and void.

(b) To restrain the respondent No. 3 not to pass any adverse order upon the impugned show cause notice issued on the basis of impugned inquiry report till final decision of this petition.

4. At the very outset we had confronted learned counsel for the Petitioner as to the maintainability of the Petition on the touchstone of Article 212 as well as the earlier proceedings, but he nonetheless sought to advance the merits of the matter on the ground that the Show-Cause Notice was *mala fide* and that the Petitioner had been implicated in the matter without due cause.
5. Upon consideration, the matter is found to be misconceived and vexatious as Article 199 does not present a means for the Petitioner to contest the disciplinary proceedings on merits in view of the bar under Article 212, and it even otherwise does not remain open to the Petitioner to assail the Show-Cause Notice through this Petition in view of the Order made in the earlier Petition.

6. It is for the foregoing reasons that we had dismissed the Petition vide a short Order dictated in Court upon culmination of the hearing on 23.11.2023, whilst imposing costs upon the Petitioner.

JUDGE

JUDGE