

ORDER SHEET
IN THE HIGH COURT OF SINDH CIRCUIT COURT
MIRPURKHAS

Constitution Petition No.D-702 of 2024

(Changez Khan Vs. P.O Sindh & others)

DATE ORDER WITH SIGNATURE OF JUDGE

Before

Adnan-ul-Karim Memon, J

Amjad Ali Bohio, J

Date of hearing & Order 05.08.2024

Mr. Ali Sher Baloch, Advocate for the petitioner.

Mr. Ayaz Ali Rajpar, A.A.G Sindh

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ORDER

Adnan-ul-Karim Memon, J. Petitioner Changez Khan has filed this petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, by calling in question his termination from service Order dated: 26-08-1996. He also seeks reinstatement of his service on the post of Secretary Union Council in BPS-07.

2. At the outset, we asked the learned counsel as to how this petition is maintainable against the Order dated 26-08-1996 when his service was dispense with and now he has filed this petition on 08-09-2020, which falls within the ambit of doctrine of laches.

3. Learned counsel submits that before initiation of disciplinary action by the respondents, the petitioner was not served with any show cause notice or explanation, thus the Order of his termination is illegal. Learned counsel further submits that despite of fulfilling all codal formalities, the formal appointment letter was issued. Learned counsel further argued that vested right has accrued in his favour, who was declared qualified through proper channel; therefore, the petitioner ought to have been issued the show cause notice, before taking adverse action against him. As such, the petitioner has been condemned un-heard. He prayed for setting aside the impugned termination letter.

4. Learned A.A.G has opposed this petition on the premise that the case of the petitioner squarely falls within the ambit of laches; therefore, petitioner has no vested rights to put his appearance in the year

2020 when his service was terminated in the year 1996. He prayed for dismissal of this petition.

5. We have heard the learned counsel for the parties and perused the material available on record with their assistance.

6. We would like to point out that this petition was filed in the year 2020 whereas, the alleged cause of action accrued in favour of the petitioner in the year 1996 and no plausible or logical justification has been offered to show as to why petitioner was waiting such a long time to approach this Court.

7. The question of laches in the case of appointment has much significance and due to inordinate delay the things and circumstances have enormously changed. Primarily, laches is simplest form, mean failure of person to do something which should have been done by him within a reasonable time, if remedy of constitutional petition is not availed within a reasonable time, then interference can be refused on the ground of laches. Even otherwise, grant of relief in writ jurisdiction is discretionary which is required to be exercised judiciously. No hard and fast rule can be laid down for the exercise of discretion by the Court for grant or refusal of the relief in the exercise of extraordinary jurisdiction.

8. As a result of the above discussion, this petition is found to be not maintainable on account of laches and is dismissed accordingly alongwith pending application (s) if any.

JUDGE

JUDGE

“Ali Sher”