

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
C.P. No.D-48 of 2006

Date	Order with signature of Judge
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Present

Mr. Justice Muhammad Ali Mazhar.
Mr. Justice Abdul Maalik Gaddi.

William John	Petitioner
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V E R S U S

M/s. State Bank of Pakistan, & others	Respondents
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Date of hearing 26.01.2017

None present for the petitioner.

Syed Masroor Ahmed Alvi advocate for the Respondents.

Mr. Asim Mansoor, D.A.G.

Muhammad Ali Mazhar, J: The record shows that earlier Mr. Iqbal Haider advocate was representing the petitioner. The order sheet dated 03.12.2011 shows that Mr. Ravi Pinjani advocate appeared and informed the court that Mr. Iqbal Haider advocate has expired, thereafter, he tried to contact the petitioner but petitioner is not traceable. On his statement, the court directed the office to issue notice to the petitioner. Again matter was fixed on 07.04.2015 but neither the petitioner was present nor his counsel, thereafter, once again intimation was issued to the petitioner. Today again we called the matter twice but neither the petitioner appeared nor his counsel.

2. As a matter of fact, the petitioner has challenged his termination order No. 278 issued by State Bank of Pakistan on

31.10.2005. He has raised a plea that State Bank of Pakistan Staff Regulations, 2005 are not applicable to him and in his case the Respondents have misapplied sub-regulation (a) of Regulation 18. It is further stated that the petitioner submitted a leave application for his absence which was not accepted.

3. Learned counsel for the State Bank of Pakistan referred to the comments filed by the Respondents and at the very outset, he has shown a letter dated 11.10.2005 attached with the counter affidavit to show that in fact the petitioner himself applied for retirement from service at his own option. His application is reproduced as under:-

**“The Chief Manager,
SBP BSC (Bank),
Karachi.**

**Subject: RETIREMENT FROM SERVICE
AT EMPLOYEES OPTION**

Respected Sir,

I intend to retire from Bank’s service on option basis in terms of Regulation 18(A)(i) of SBP BSC (Bank) Staff Regulations (2005) with effect from 31-10-2005, I shall be obliged if you please accept my request.

I intend to pay a sum equivalent to one month salary in lieu of one month’s notice.

**Yours Obediently,
Sd.**

**(WILLIAM JOHN)
GKW-024/107811
VAULT PEON
SBP BSC (BANK)
KARACHI**

DATED: 11-10-2005”

4. After filing his application, the Assistant Chief Manager issued the Office Memorandum to him on 15.10.2005 in which

he was informed that on availing the option of retirement from service, the petitioner would not be allowed to continue medical facility nor any compensation towards medical encashment and he was again called upon to give his consent. A letter dated 17.10.2005 is also available with the comments which was written by the petitioner to the Chief Manager, State Bank of Pakistan, Karachi in which he referred to the Office Memorandum referred to above and gave his unconditional consent for termination of service under Regulation 18 (a) (i) of SBP BSC (Bank), Staff Regulations, 2005. He further stated that even he cannot be paid medical encashment nor he will claim to continue medical facility in future under the Rules. Learned counsel further argued that all these facts have been suppressed by the petitioner in his petition nor any such letter was attached.

5. In view of the record produced by the Respondents, we are of the view that the petitioner has concealed some material facts from the court and he is claiming that he was wrongly terminated while the Respondents have produced some documents which do show that the petitioner himself opted and also gave his consent for his termination. Even otherwise, the disputed and/or controversial facts cannot be decided in the writ jurisdiction which require evidence. However, in view of the available documents, it is clear that the petitioner himself opted termination of service and, subsequently, he challenged the termination letter by way of this petition. In the

above circumstances, this petition is dismissed along with pending application.

JUDGE

JUDGE

Aadil Arab