ORDER SHEET IN THE HIGH COURT OF SINDH, KARACHI C.P No.D-411of 2017

Date

Order with signature of Judge

Fresh Case

1. For orders on Misc. No. 1932/2017

For orders on Office Objection No. 1 & 3.

For orders o Misc. No. 1933/2017. For orders on Misc. No. 1934/2017

For hearing of main case.

Present:-

Mr. Justice Irfan Saadat Khan

Mr. Justice Adnan-ul-Karim Memon

25.01.2017

Petitioner Syed Akhtar Hussian present in person.

ADNAN-UL-KARIM MEMON:- Petitioner claims to be Civil Servant an seeks directions of this Court in the following manner:-

- 1. To direct all the Respondents Police Officer to discharge their legal obligations under statute, Constitution and in the parameter of law toward the Petitioner.
- 2. To declare that double, triple punishment to the Petitioner in one charge is illegal, malafidely and in violation of Article 212 & 13 of the Constitution of Pakistan.
- 3. To direct the respondents Police Officer to not harass the Petitioner on the basis and grounds of departmental proceedings.
- 4. To direct the Respondents to stop departmental proceedings till the disposal of the instant constitution petition just to save the right of the Petitioner.

The Petitioner who is present in person submits that he was served with a Show Cause Notice dated 18.01.2017 along with Charge Sheet issued by Senior Superintendent of Police, Korangi, Karachi.

He further submits that the Committee constituted by the High Police Officials, who recommended for major punishment for compulsory retirement of the Petitioner on the ground of involvement of criminal cases/patchy record. The recommendations of the Committee is available at Page-55.

The Petitioner further submits that he has been condemned unheard which is violation of Article 10-A of the Constitution and prays for suspension of the departmental proceedings initiated against him.

We are of the opinion that the Petitioner is Civil Servant and his case falls within the ambit of Sindh Civil Service Act, and Police Rules, 1934.

It is now well settled that this Court has no jurisdiction under Article 212 of the Constitution, which oust the jurisdiction of this Court in respect of the matters pertaining to terms and conditions of Civil Servants.

The ouster contemplated under the said article is the constitutional command, and, therefore, of necessity restricts the jurisdiction of this Court on the subject, which squarely falls within the exclusive domain of the Sindh Service Tribunal.

We are of the firm view that the expression terms and conditions as defined in Sindh Civil Servant Act, 1973 and Rules framed thereunder include transfer, posting, disciplinary matters, absorption, seniority and eligibility to promotion and the same comes within the ambit of section 4 of the Sindh Service Tribunal, Act, 1973. The reference is made in the case of Ali Azhar Khan Balouch Vs. Province of Sindh and others (2015 SCMR 456).

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In the light of above facts and circumstances of the case, the case

of the Petitioner squarely falls within the ambit of terms and conditions of

Sindh civil Servants Act, 1973 and this Court has no jurisdiction under

Article 212 of the Constitution to dilate upon the merits of the case of

entertain the instant Petition under Article 199 of the Constitution. the

Petition being misconceived is dismissed in limine along with listed

applications.

JUDGE

JUDGE

Shafi Muhammad P.A