

IN THE HIGH COURT OF SINDH AT KARACHI

C.P. No.D-4515 of 2017

Present:

Mr. Justice Irfan Saadat Khan

Mr. Justice Adnan-ul-Karim Memon

J U D G M E N T

Date of hearing:	<u>13.09.2019.</u>
Petitioner:	Wahid Khursheed Kunwar through Mr. <u>Raj Ali Wahid Kanwar, Advocate</u>
Respondent No.1:	Employees Old Age Benefits Institute through Mr. Fayyaz Ali Metlo Advocate for <u>Mr. Sarfraz Ali Metlo, Advocate</u>
Respondent No.2:	Federation of Pakistan through the Chairman Federal Board of Revenue through Mr. <u>Zafar Imam, Advocate.</u>
Res Nos.3 to 5.	Ministry of Overseas Pakistanis & Human Resources Development and two others through Shaikh Liaquat Hussain, <u>Assistant Attorney General for Pakistan.</u>

IRFAN SAADAT KHAN, J:- The instant petition has been filed on the ground that the enquiry proceedings initiated against the petitioner being malafide may be declared without jurisdiction and ab initio void.

2. Briefly stated the facts of the case are that the petitioner joined the service of Respondent No.1-department as an Investment Advisor in 2010. Thereafter, certain allegations were raised against him with regard to manipulation and irregularities in respect of purchase of various properties of the Respondent No.1, which action has been challenged in the present petition.

3. Mr. Raj Ali Wahid Kanwar Advocate has appeared on behalf of the petitioner and stated that his only prayer is that since the petitioner has retired, hence the enquiry proceedings initiated against him may be

abated. He stated that so far as the criminal proceedings initiated against the petitioner is concerned the same is a separate matter, which the petitioner is facing, but his only prayer and request being that the petitioner may be absolved from the civil/enquiry proceedings initiated against him since he is no more in service. In support of his contention the learned counsel has placed reliance upon the following judgments:-

1. MUHAMMAD ZAHEER KHAN V. GOVERNMENT OF PAKISTAN AND OTHERS (2010 SCMR 1554)
2. ABDUL WALI VS. WAPDA AND OTHERS (2004 SCMR 678)
3. ROSHAN DANI AND OTHERS VS. WAPDA AND OTHERS (2015 PLC (CS)263)
4. BILQUIS NARGIS VS. SECRETARY TO GOVERNMENT OF THE PUNJAB, EDUCATION DEPARTMENT (1983 PLC (CS)1141)
5. PARVEEN JAVAID VS. CHAIRMAN WAPDA AND OTHERS (2011 PLC (CS) 1527)
6. GHULAM NABI VS. FEDERATION OF PAKISTAN AND OTHERS (2018 PLC (CS) NOTE 69).

4. The counsel for the respondents, on the other hand, have not denied the position as stated by the learned counsel for the petitioner, however, state that there are certain criminal proceedings pending against the petitioner.

5. We have heard all the learned counsel at considerable length and have perused the record and the decisions relied upon by the learned counsel for the petitioner.

6. It is seen from the record and noted and from the admitted position, as conceded by the learned counsel for the respondents, that the petitioner is no more in the service, hence enquiry proceedings against the petitioner could now not be continued since he is no more a civil servant after his retirement. We, however, agree with the contention of

the learned counsel for the respondents that the criminal proceedings being separate matter cannot be equated with the enquiry proceedings initiated against the petitioner and let the same be decided on their own merits in accordance with law.

7. We, therefore, in the light of the submissions Supra and the decisions as relied upon by the learned counsel for the petitioner are of the view since it is now a settled proposition of law that in the event of retirement from the service of the petitioner the enquiry proceedings initiated against him could not continue since he is no more of civil servant. The instant petition, therefore, stands disposed alongwith the pending application by declaring the enquiry proceedings initiated against the petitioner since, he has retired, to be abated and of no legal effect.

JUDGE

JUDGE

Karachi:
Dated: 17th September, 2018