

IN THE HIGH COURT OF SINDH AT KARACHI

Constitutional Petition No. D- 6999 of 2019

Before:
Mr. Justice Nadeem Akhtar
Mr. Justice Adnan-ul-Karim Memon

Shabbir Aslam V/S The Adjutant General & 04 others.

Date of hearing
& decision: 09.03.2020

Petitioner Shabbir Aslam (CNIC No.42301-2466701-5) present in person.

ORDER

ADNAN-UL-KARIM MEMON, J. The subject matter of titled petition is with regard to the petitioner's salary, medical expenses and issuance of No Objection Certificate in his favor for his appointment in Police Department, Government of Sindh.

2. It is noted that on identical issue the present petitioner had also filed C.P. No.D-1672 of 2012, which was dismissed by this Court vide order 27.11.2014, excerpt whereof is as under:

"Petitioner was discharged from service in terms of Pakistan Army Act Rule 12 read with Army Regulations (Instructions) 171. On perusal of record, it appears that the petitioner preferred Appeal before the Competent Authority/Chief of Army Staff, which was dismissed on 08.09.2010. Present petition is barred under Article 199 (3) of the Constitution of Islamic Republic of Pakistan, 1973. Several chances were given to the Petitioner to satisfy this Court on the maintainability of present petition but he has failed to convince us on the maintainability of the petition therefore, present petition is dismissed being barred under the law and not maintainable alongwith all pending applications."

3. He assailed the aforesaid order before the Hon'ble Supreme Court in C.P No.428-K of 2019, which was dismissed vide order dated 29.08.2019 with the observation that the petitioner, if he has any other subsisting grievance against the respondents, may avail his remedy in accordance with law.

4. We queried from the petitioner as to how this petition is maintainable as his earlier petition was dismissed by this Court vide order dated 27.11.2014 which attained finality by the order dated 29.8.2019 passed by the Hon'ble Supreme Court of Pakistan as such this petition is barred under Order II Rule (2) CPC, 1908.

5. Petitioner, who is present in person, states that his cause of action against the respondents still subsists, therefore, he has approached this Court. We are not satisfied with the aforesaid assertion of the petitioner for the simple reason that Article 199(3) of the Constitution of Pakistan restricts this Court for making an order on application made by or in relation to a person who is a member of armed forces of Pakistan or who is for the time being subject to any law relating to any of those Forces in respect of his terms and conditions of service or in respect of any matter arising out of his service, or in respect of any action taken in relation to him as a member of the Armed Forces or as a person subject to such law.

6. We have noticed that his claim of appointment in Sindh Police has already been discarded by this Court vide order dated 23.10.2018 in C.P. No.D-3362 of 2017, which has also attained finality by the order dated 11.7.2019 passed by the Hon'ble Supreme Court of Pakistan in Civil Petition No.1431-K of 2018.

7. In view of hereinabove facts and circumstances of this case, we hold that instant petition is not maintainable being barred under Order II Rule 2 CPC. Petition stands dismissed in limine along with pending application with no orders as to cost.

JUDGE

JUDGE

Nadir*