

Order Sheet
IN THE HIGH COURT OF SINDH KARACHI

Before:

Mr. Justice Muhammad Shafi Siddiqui

Mr. Justice Adnan-ul-Karim Memon

Constitutional Petition No. D -1042 of 2021

Muhammad Ahmed Khan

Versus

Federation of Pakistan and another

Date of hearing &

Decision : 12.02.2021

Syed Anayat Hussain Shah Bukhari, advocate for the petitioner.

ORDER

ADNAN-UL-KARIM MEMON, J. - The petitioner seeks reinstatement in service under the Sacked Employees (Reinstatement) Act, 2010. Per petitioner, he was adjusted/appointed provisionally in the office of Divisional Engineer Coaxial and Carrier Pakistan Telecommunication Corporation on a purely temporary basis as Wireman in the year 1994, however, his services were terminated with effect from 28.05.1995 on the premise that his service was temporary/stopgap/Adhoc/leave vacancy during the ban period declared by Establishment Division, Government of Pakistan dated 12.11.1990.

2. Syed Anayat Hussain Shah Bukhari, learned counsel for the petitioner, has argued that his case falls within the definition of Section 2(f) of Sacked Employees (Reinstatement) Act, 2010, as he was politically victimized vide letter dated 28.05.1995 by the successor Government; that the petitioner is entitled to reinstatement in service on the rule of consistency in view of the case decided by this Court in the cases of Shankar Lal v. Federation of Pakistan and another, 2019 PLC (CS) 1196, and Zafar Iqbal Zahid v. Federation of Pakistan and others, 2019 PLC (CS) 882. He prayed for allowing the instant petition in a similar line.

3. We have considered the contention of learned counsel for the petitioner and have minutely gone through the material available on record.

4. The moot question involved in the present petition is whether the petitioner's case comes within the ambit of Section 2(f) of Sacked Employees (Reinstatement) Act, 2010.

5. To decide the issue involved in the present proceedings, we think it appropriate to have a look at the special law, enacted as the Sacked Employees

(Reinstatement) Act, 2010, which is beneficial legislation for reinstatement of employees as defined under Section 2(f) of the said Act.

(f) "Sacked employee" means-

(i) *a person who was appointed as a regular or ad hoc employee or on contract basis or otherwise in service of employer, during the period from the 1st day of November, 1993 to the 30th day of November, 1996 (both days inclusive) and was dismissed, removed or terminated from service or whose contract period was expired or who was given forced golden hand shake during the period from the 1st day of November, 1996 to the 12th day of October, 1999 (both days inclusive).*

6. As per the petitioner, he meets the conditions mentioned in the aforesaid section 2(f) of the Act, 2010. We have perused his appointment letter dated 01.06.1994 which reads that he was adjusted/appointed provisionally on a purely temporary basis and his service was liable to be terminated at any time with or without assigning any reason. The termination of his service letter dated 28.05.1995 explicitly shows that Divisional Engineer Coaxial and Carrier Karachi was not authorized to make appointments, thus his appointment was recalled by the respondent-corporation.

7. We are of the view that the petitioner has not been given any discriminatory treatment vide dispensing his provisional assignment vide letter dated 28.05.1995. In this view of the matter, the decision taken by Pakistan Telecommunication Corporation vide letter dated 28.05.1995 by dispensing his service cannot be held to be erroneous. The Sacked Employees (Reinstatement) Act, 2010 is enacted only to the extent of Government-owned entities established or controlled by the Federal Government and the case of the petitioner does not fall within the ambit of Sacked Employees (Reinstatement) Act, 2010 as discussed supra.

8. In the light of the above facts and circumstances of the case, we conclude that the petitioner has failed to make out the case for relief under the Sacked Employees (Reinstatement) Act, 2010. This petition is dismissed in limine along with the pending application(s) with no order as to costs.

9. These are the reasons for our short order dated 12.02.2021 whereby we have dismissed the instant petition.