

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
C.P No.D-1613 of 2021

Order with signature of Judge

Fresh Case

1. For order on Misc. No.6811/21
2. For order on office objection No.18 & 26
3. For order on Misc. No.6812/21
4. For order on Misc. No.6813/21
5. For hearing of main case.

Dated : 04.03.2021

Mr. Ali Asadullah Bullo for petitioner.

-.-.-

1. Urgency granted.
2. Deferred for the time being.
3. Granted subject to all just exceptions.
- 4-5. It is contended inter alia that the petitioner was initially appointed as Sub-Engineer (BS-11) in the year 1987 in the Karachi Development Authority (KDA) and was promoted as Executive Engineer (BS-18), however, in the year 2013. Per learned counsel, his services were devolved in Malir Development Authority (MDA). It is urged that in the year 2016 he was repatriated to his parent department i.e. KDA by the direction of the Hon'ble Supreme Court of Pakistan, however, he challenged his repatriation order in C.P. No.D-1017/2017 which was dismissed by this Court vide common judgment dated 12.4.2017. He further pointed out that his colleagues preferred Civil Petition for Leave to Appeal before the Hon'ble Supreme Court of Pakistan; and, on 02.03.2018 the Hon'ble Supreme Court was pleased to dispose of the petitions, having become infructuous, on the statement of learned AAG that the competent authority had withdrawn the notification of their repatriation from MDA to KDA; and, now they are back to MDA. Per learned counsel, the petitioner was posted as Director (Ante-encroachment Cell) on officiating basis as a stopgap arrangement, however, due to his active part in the Anti-encroachment drive, his services have been placed under suspension vide order dated 25.02.2021 by Secretary, Local Government, Government of Sindh, Local Government and Housing Town Planning. It is further stated that the impugned notification is not only in contravention to the provisions of the relevant Rules, Act and Efficiency and Disciplinary Rules of MDA but also is in violation of Section 16 of the General Clauses Act 1897. It is added that the appointing authority of the petitioner is respondent No.3 and not respondent No.2, therefore, the impugned

notification is nullity in the eyes of law. He referred to various provisions of the Malir Development Authority Act, 1993-1994 (Revival and Amending) Act, 2013. He also referred to the Gazette notifications dated 18.02.1996 and 24.02.2015 and tried to convince that the Secretary, Local Government, is not competent to place his services under suspension without holding an inquiry into the allegations if any.

Prima facie, the perusal of impugned notification shows that the Petitioner along with others was suspended by respondent No.2. Before dilating upon the fact as to whether Respondent No.2 was/is competent to suspend the Petitioner or not, at the first instance, we deem it appropriate to issue notice to the respondents as well as to learned AAG for **08.03.2021**, to consider whether the Petitioner can challenge his suspension and subsequent initiation of inquiry proceedings against him by the competent authority in the constitution petition or otherwise.

Judge

Judge