

ORDER SHEET
HIGH COURT OF SINDH, KARACHI

C.P. No.D-3437 of 2019

Date	Order with signature of Judge
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Present

Mr. Justice Muhammad Ali Mazhar.
Mr. Justice Agha Faisal.

Mansoor Ali Mangi.....Petitioner

Versus

Federation of Pakistan & others.....Respondents

Date of hearing 18.12.2019

M/s. Syed Junaid Alam Rizvi and Mazhar Ayub Rana
advocates for the petitioner.

Mr. Ghulam Mohiuddin, Assistant Attorney General.

Saeed Abbasi, Deputy Director, Passport Office, Saddar
Karachi.

Umar Saeed, Assistant Director, Passport Office, Saddar,
Karachi.

Muhammad Ali Mazhar, J: The case of the petitioner is that he was initially appointed on contractual basis in Machine Readable Passport Project vide appointment letter dated 23.11.2004. However, vide office order No.45/2013, the service of the petitioner as well as 132 other employees were regularized against available post. Copy of office order is available at page 27. After some time, vide office order No.431/2016 dated 07.12.2016, some disciplinary proceedings shown to have been initiated against the petitioner based on some acts of omission and commission which considered to be misconduct under Government Service (E&D) Rules, 1973. Precisely, the allegations were

that the petitioner applied for grant of three months' leave which was regretted but he remained unauthorizedly absent from duty since 12.06.2012 to 07.12.2016. He was also communicated that his official/gratis passport is cancelled. It revealed that fresh passport was issued in lieu of earlier passport at Toronto meaning thereby petitioner unauthorizedly obtained subsequent manual passport from Parep Toronto (Canada) without obtaining NOC. The Inquiry Officer recommended imposition of major penalty of dismissal from service under the Government Servant (E&D) Rules, 1973 and the competent authority issued dismissal letter to the petitioner.

2. The grievance lodged by the petitioner through this petition is that despite his dismissal of service under the E&D Rules, 1973 he has been declared blacklist and his passport and CNIC have been confiscated by the FIA at Jinnah Terminal.

3. The comments have been filed by the respondent No. 1 & 2 and in paragraph-9 of the comments reasons of blacklisting are mentioned as follows:-

“9. Admitted. However, it is important to explain that the petitioner before proceeding abroad submitted an Indemnity Bond amounting to Rs. 2.5 million wherein he was bound to report back to employer i.e. Directorate General, Immigration and Passports as and when directed. He was also bound to serve minimum on year after returning from posting at the respective Foreign Mission (Annex-“B”). But the petitioner violated the terms and conditions laid down in Indemnity Bond and proceeded abroad without any intimation/prior approval just after four months of his arrival from Parep, Toronto. He was bound to pay the Indemnity amount of Rs. 2.5 Million on account of

breaching the terms and conditions laid down in Indemnity Bond. Consequently, his name was placed on BL in order to restrict his traveling abroad.”

4. The gist of paragraph-9 is that the petitioner submitted an indemnity bond in the sum of Rs.2.5 million with the undertaking to report back to the employer and serve minimum one year after returning from his posting of foreign mission but the petitioner violated such terms and conditions of the indemnity bond.

5. What we understand from paragraph-9 reproduced above that in fact the petitioner was declared blacklist due to breach of the terms and conditions of indemnity bond but at the same time we are of the firm view that if bond is breached the respondents ought to have filed suit for recovery against the petitioner in the civil court rather than declaring him blacklist after dismissal of service from the respondent department. The petition is disposed of with the directions to delist the name of the petitioner from blacklist and return his passport and CNIC after due compliance of all formalities, however, the respondent No.2 & 3 may file suit for recovery against the petitioner in accordance with law if they feel any breach of indemnity bond.

JUDGE

JUDGE