

IN THE HIGH COURT OF SINDH AT KARACHI

Suit No. 70 of 2019

Plaintiff: Nadeem Durrani
Through Mr. Syed Asghar Ali Advocate.

Defendants National Bank of Pakistan & others
No. 1, 2 & 3: Through Mr. Suleman Hudda Advocate.

For hearing of CMA No. 18722/2018.

Date of hearing: 12.02.2020.

Date of order: 12.02.2020.

O R D E R

Muhammad Junaid Ghaffar, J. This is a Suit for Reinstatement in Service, Declaration, Damages and Recovery of Benefits and Dues, whereas, through listed application the Plaintiff seeks a temporary injunction seeking reinstatement into service, pending final adjudication of the Suit.

2. Learned Counsel for the Plaintiff submits that the Plaintiff was though dismissed from service on 19.4.2010; however, the ground on the basis of which he was terminated were two pending criminal cases out of which, the Plaintiff has been acquitted by the Special Court (Offences in Banks) Sindh at Karachi on 26.10.2018, whereas, he is on bail in the second case and therefore, entitled for reinstatement through injunction. According to him, the termination of the Plaintiff on filing or pendency of the criminal cases was illegal and unwarranted.

3. On the other hand, learned Counsel for Defendants No. 1, 2 & 3 submits that the prayer sought through listed application cannot be granted at this stage as the Plaintiff already stands dismissed way back in 2010, whereas, written statement has been filed and matter be posted for settlement of issues and leading of evidence.

4. I have heard both the learned Counsel and perused the record. Learned Counsel for the Plaintiff was, at the very outset confronted as to grant of the listed application at this stage of the proceedings inasmuch as the Plaintiff was dismissed in 2010, whereas, though he has been acquitted in one case; but at the same time, the second criminal case is still pending, and considerable time has lapsed since his dismissal; however, he has not been able to satisfactorily respond to the objection of the Court. It is needless to mention that for grant of a temporary injunction pending trial of the case, the three ingredients for grant of such an injunction must be present simultaneously i.e. prima facie case, balance of convenience and causing of irreparable loss, if the injunction is refused. Even if it is presumed and without prejudice to the case of the Defendants, that acquittal in one case establishes some prima facie case in favour of the Plaintiff, the other ingredients i.e. balance of convenience and causing of irreparable loss are still lacking, as of today. It is not understandable as to why the Plaintiff had not approached this Court earlier, as nothing prevented him from doing so against his dismissal in the year 2010, notwithstanding pendency of the criminal, cases and once he has chosen to wait for the outcome of those cases, then at least he is not entitled for any injunctive relief at the present moment, for the fact that one criminal case is yet to be decided. If those criminal cases prevented him earlier, then today also he stands in the same position as the other case is still pending. Hence, there does not appear to any justifiable ground or reason to entertain the listed application.

5. As to the Plaintiffs case on merits, I have refrained myself from dilating upon the issue as to whether he could have been terminated; due to pending criminal cases, or whether his acquittal entitles him for immediate reinstatement; lest it may prejudice the case of any of the parties at the trial. For the present purposes, it would suffice to observe that Plaintiff has failed to make out a case for an injunctive relief and therefore, by means of a short order in the earlier part of the day, listed application was dismissed and these are the reasons thereof.

J U D G E

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