

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

C. P No. D – 1715 of 2021

Before:-

Mr. Justice Muhammad Junaid Ghaffar
Mr. Justice Zulfiqar Ali Sangi

Fresh cases

1. For orders on CMA No.8360/2021 (U/A)
2. For orders on office objection at flag 'A'
3. For orders on CMA No.8361/2021 (Ex.A)
4. For hearing of main case

Date of hearing: 14-12-2021

Date of decision: 14-12-2021

Mr.Inam Ali Maitlo, Advocate for the Petitioner

ORDER

Muhammad Junaid Ghaffar, J;- 1. Granted.

2, 3 & 4. Through this Petition, the Petitioner has sought the following relief;-

- (a) To declare that the act of respondents for withholding the salaries of Petitioner without any due course of law, while the Petitioner is serving in the respondents department regularly, there is no ambiguity in service record of Petitioner, such act of respondents is illegal, unlawful, ab-initio, null and void. Further this honourable Court may be pleased to declare that the Petitioner is entitled for releasing of his lawful salary from the date of his withholding.
- (b) To direct the respondents to release the lawful salary of Petitioner from the month of Jan 2021 till today and continue the salary of the Petitioner in future without any hindrance.

At the very outset, we have confronted the Petitioner's Counsel as to maintainability of this Petition as against the above prayer inasmuch as the Petitioner now stands retired as per his original Date of Birth as recorded in Service Book and while confronted, he submits that the Date of Birth stands corrected through Judgment dated 18-03-2021 passed by 1st Civil Judge and Judicial Magistrate, Khairpur in Civil Suit No.96 of 2020 and therefore, Petitioner shall be deemed to have been in service; hence entitled for salaries.

We have heard the Petitioner's Counsel and perused the record.

We are not convinced with the aforesaid submissions of the Petitioner's Counsel, as admittedly the Petitioner was inducted into service in 1992 with his birth of year as 1961 and Petitioner present in person has also shown us the earlier Identity Card. Accordingly, he stood retired in 2021 after attaining the age of superannuation. But at the fag end of his career, he suddenly realized that his date of birth is not correctly entered into his service record and tried to get it changed by way of a Civil Suit, which though stands decreed; but admittedly the said decree cannot be made applicable to the department in question, which was never arrayed as a defendant. Notwithstanding this, the Honourable Supreme Court as well as High Courts have consistently deprecated such conduct on the part of employees of the Government Departments to seek change in Date of Birth with a specific motive of extension in service. It has been held that generally employees when they are about to retire, suddenly realize that their Date of Birth is incorrectly recorded in the service book and make efforts to have it changed. Such act of the employees has not been approved; rather has been deprecated, whereas, if it is a case of a civil servant, now even the law prohibits such correction in terms of Rule 12-A of the Civil Servants (Appointment, Promotion and Transfer) Rules, 1973, as the same can only be done within two years of joining service and not beyond that. In support reliance may be placed on the cases reported as ***Khalil Ahmed Siddiqui Vs. Pakistan through Secretary Interior Division, Government of Pakistan and 05 others (2003 PLC (CS) 696; Ahmed Khan Dehpal Vs. Government of Balochistan and others (2013 SCMR 759) and Federal Board of Intermediate vs. Abeer Masood (2020 SCMR 316)***

In view of hereinabove facts and circumstances, this Petition is misconceived and even warrants imposition of costs; but we have restrained ourselves by taking a lenient view. It stands dismissed by warning the Petitioner not to indulge into such act any further.

Judge

Judge