

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
CP. No. D- 1611 of 2022

Date Order with Signature(s) of Judge(s)

Fresh Case

1. For order on Misc No.7258/2022
2. For order on Misc No. 7259/2022
3. For order on Misc No. 7260/2022
4. For hearing of main case

14.03.2022

Mr. Basam Ali Dehri, advocate for the petitioner

1. Urgency granted.
2. Granted subject to all just legal exceptions.
- 3-4. The petitioner has brought this lis under the doctrine of public interest litigation and has called in question the initial appointment of respondent No.3 on the premise that he has already reached the age of superannuation as per his actual date of birth i.e. 05.05.1961, however, the respondent No.3 under the garb of the order dated 01.03.2021 passed by this court in Suit No. Nil of 2021, he is continuing with his job without lawful justification. Per learned counsel, in the light of dicta laid down by the Hon'ble Supreme Court of Pakistan in Ali Azhar Khan Baloch case 2015 SCMR 456, the private respondent could not maintain the Suit before the learned Civil Court so far as alteration of his date of birth is concerned. Per learned counsel, respondent No.3 is holding the post without lawful authority and his case falls within the ambit of the writ of quo warranto. In support of his contentions, he relied upon the Performance Evaluation Report of respondent No.3 whereby his date of birth is mentioned as 05.05.1961 (page 293), therefore, he cannot continue with the subject post. Learned counsel further submits that order passed by this court which is against the judgment of the Supreme Court cannot be enforced; and, the same is a nullity in the eyes of law. He prayed for notice.

The question involved in the present proceedings is whether the private respondent can approach the Civil Court for alteration of his date of birth just before his retirement and/or the same is in line with the dicta laid down by the Hon'ble Supreme Court of Pakistan in the case of Ali Azhar Khan Baloch supra; and whether the private respondent is authorized under the law to continue with his job after reaching the age of superannuation vide notification dated 17.2.2020 (page 249). Let notice be issued to the respondents as well as to AAG for **28.03.2022** with directions to file comments on or before the next date of hearing. Meanwhile, Secretary Local Government Sindh is directed to submit the service profile of the petitioner positively on the next date of hearing. Let a copy of this order be communicated to the Secretary Local Government Sindh for timely compliance.

JUDGE

JUDGE