

IN THE HIGH COURT OF SINDH AT KARACHI

Before:

Mr. Justice Irfan Saadat Khan

Mr. Justice Adnan-ul-Karim Memon

C.P. No.D-1862 of 2021

Rao Muhammad Azeem

Versus

Government of Sindh & others

Date of hearing

& order: 30.03.2021

Mr. Muhammad Ghalib, advocate for the petitioner.

Mr. Sibtain Mehmood, Addl. A.G.

ORDER

ADNAN-UL-KARIM MEMON, J:- Through this petition, the petitioner has called in question the disciplinary proceedings initiated against him by the respondent-Police Department vide final show cause notice dated 24.2.2021 issued by Assistant Inspector General of Police, Telecommunication Sindh Karachi on the charges of misconduct under Rule 3(a) (b) of the Sindh Police (Efficiency & Discipline) Rule, 1988.

2. At the outset, we queried from the learned counsel for the petitioner as to how the instant petition is maintainable against the disciplinary proceedings initiated against him which falls within the ambit of Section 3(2) of the Sindh Service Tribunal Act, 1974 which provides that the tribunal shall have exclusive jurisdiction in respect of matters relating to the terms and conditions of service of civil servants including the disciplinary matters.

3. In other words, the jurisdiction of this Court is also barred by the provisions of the Sindh Service Tribunal Act, 1974 read with Article 212 of the Constitution. Besides above, Section 4 of the Services Tribunal Act provides that civil servant has the right of filing an appeal before the tribunal, subject to the qualifications provided therein.

4. Article 212 of the Constitution oust the jurisdiction of this Court in respect of the matters about terms and conditions of civil servants. On

the aforesaid proposition, we are fortified with the decision of the Hon'ble Supreme Court in the case of Ali Azhar Khan Baloch v. Province of Sindh [2015 SCMR 456].

5. When confronted with the aforesaid legal position of the case, learned counsel for the petitioner states that he shall avail the remedy before the learned Sindh Service Tribunal, if any final order is passed by the respondent-Police Department, in pursuance of the disciplinary proceedings initiated against him.

6. To conclude the matter, we are of the considered view that the petitioner has to overcome the clog of the pendency of the disciplinary proceedings against him if not finalized earlier; the disciplinary proceedings shall be finalized within two (02) months from the date of the decision of this Court. However, it is made clear that the competent authority shall take into consideration the defense of the petitioner and after providing the meaningful hearing to him, conclude the matter within the stipulated period and report compliance through the MIT-II of this Court for our perusal.

7. This petition stands disposed of in the above terms along with pending applications with no order as to costs.

Let a copy of this order be communicated to the competent authority of the respondents for information and compliance.

JUDGE

JUDGE