

IN THE HIGH COURT OF SINDH AT KARACHI

C.P. No.D-7164 of 2021

Date

Order with signature of Judge

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Fresh Case:

1. For order on Misc. No.31317/2021 (Urgent/App)
2. For order on Misc. No.31318/2021 (Exemption/App)
3. For order on Misc. No.31319/2021 (Stay/App)
4. For hearing of main case.

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15.12.2021

Mr. Rafiq Ahmed Kalwar, Advocate for the petitioner.

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1. Urgency granted.

2-4. The instant petition has been filed on the ground that the Memorandum dated 27.08.2021 bearing No.HRMG/EDW/F&FD/K-3366/988 issued to the petitioner may be vacated.

Mr. Rafiq Ahmed Kalwar Advocate has appeared on behalf of the petitioner and stated that the above Memorandum has been issued with mala fide intention. He invited our attention to various Annual Performance Appraisal letters issued by the respondent bank evaluating the performance of the petitioner as very good. He further stated that the petitioner was also promoted on the basis of his performance in 2017 as Officer Grade-II. He, however, states that the said Memorandum issued by the respondent bank to the petitioner is causing harassment to him and the petitioner apprehends that under the garb of this letter adverse orders could be passed by the respondent against the petitioner.

The counsel has been heard and record has been perused.

At the very outset, the counsel was asked to satisfy with regard to maintainability of this petition, as the record clearly reveals that the petitioner has simply been issued a Memorandum of which not only a reply has been furnished by him but also an appeal has also been preferred by him, which admittedly is pending adjudication. The counsel during the course of the arguments has also admitted that the review filed by him is pending. We

specifically then asked from the counsel that if the review filed by the petitioner is pending before the respondent No.1 why has he filed the instant petition without first availing the legal remedies as available to him under the law, to which he replied that the charges leveled against the petitioner are baseless and fabricated. Be that as it may, even if it is assumed that the charges leveled against the petitioner are baseless and fabricated, this Court has no jurisdiction under the law to divulge into the facts with regard to the alleged charges leveled against him that these are either baseless or fabricated, as this requires detailed deliberation, recording of evidence etc. which could only be done after hearing the petitioner and obtaining the relevant record. Since it is an admitted position that the review filed by the petitioner is pending before the respondent No.1, we, under the circumstances, could only direct the petitioner to avail the remedy already undertaken by him and in case any adverse order is passed against him, he has the remedy to adopt the procedure as provided under the relevant rules and regulations but this petition, on the face of it, appears to be not maintainable as the petitioner without availing the legal remedies as available to him under the law has approached the Court in respect of the matter which requires factual enquiry, detailed deliberation etc. which cannot be done in a writ petition even when a review in the said matter is pending adjudication. We, therefore, find no merit in the instant petition and dismiss the same in limine alongwith the listed application. The petitioner is directed to avail the legal remedy already undertaken by him in accordance with law.

JUDGE

JUDGE