

IN THE HIGH COURT OF SINDH AT KARACHI

Present:
Muhammad Junaid Ghaffar, J.
Agha Faisal, J.

C P D 2807 of 2019 : Nazuk Ali & Others vs.
Federation of Pakistan & Others

For the Petitioners : Mr. Abdul Salam Memon, Advocate
Ms. Rabiya Jawed, Advocate

For the Respondents : Mr. Yasir Ahmed Shah
Assistant Attorney General

Lt. Commander Raeesa Khatoon
Lt. Commander Shahid Waqar
Lt. Mian Bilal

Date/s of hearing : 03.10.2022

Date of announcement : 03.10.2022

ORDER

Agha Faisal, J. The petitioners, stated to be serving in Pakistan Navy Police (“PNP”) functioning under the Pakistan Navy Civilian Authority, have filed this petition seeking a declaration that PNP has no proper laws governing its service structure and requiring directions that legislation be undertaken in such regard. Since the very first date, this petition is being listed for orders on maintainability and today the petitioners’ counsel was directed to assist the Court in such regard.

2. Petitioners’ counsel adverted to orders passed by the learned Federal Service Tribunal dated 12.10.2018 wherein the petitioners’ appeal was dismissed and it was averred that under such circumstances the *only* forum available to the petitioners was that of the writ jurisdiction of this Court. While eschewing reference to any infringement of any fundamental right/s of the petitioners, their counsel made reference to the Airport Security Force and demonstrated that it was governed by specific legislation, hence, in view of the petitioners also donning uniforms and undertaking security, similar legislation was also merited in respect of PNP.

3. The learned Assistant Attorney General demonstrated that terms of service of the petitioners are governed *inter alia* by the Civil Servants Act 1973

and the Civil Servants (Appointment, Promotion & Transfer) Rules 1973, as manifest from their own terms of employment placed on record by the petitioners themselves. It was further shown that the service structure was regulated by SRO 795(I)/83 and SRO 4(KE)/96 issued by the Ministry of Defense. Numerous additional prescriptions of the law in such regard were also placed on record as referred to in paragraphs 3, 4, 5, 10, and 25 of the comments filed by the respondent no. 2. In conclusion it was summated that the petition was even otherwise misconceived as no breach of any fundamental right of the petitioners had even been averred by their counsel.

4. Heard and perused.

5. The writ jurisdiction of this Court is discretionary¹ in nature and even otherwise ought only to be invoked by a person aggrieved². It was never the case articulated before us that any fundamental right of the petitioners had been infringed, hence, we see no reason to consider the petitioners as being aggrieved. The petitioners' employment letters contain specific reference to the laws / rules governing their employment and no case has been set forth before us to consider the relevant laws, even where incorporated by reference, to be inadequate.

6. While dismissal of an appeal by the FST may give cause for challenging the decision before the Supreme Court, if a case involving a substantial question of law of public importance is made out³, however, the same does not oblige this Court to automatically extend the forum created vide Article 199 of the Constitution. The insistence upon specific legislation for any outfit donning uniforms and undertaking security is also found to be devoid of cogent rationale. Even otherwise, legislation is the prerogative of the Parliament and no case has been made out to warrant any initiative to be taken in exercise of Article 199 of the Constitution in such regard.

7. We are constrained to observe, in view of the reasoning as aforesaid, that the petitioners' counsel has failed to set forth a case for exercise of writ jurisdiction. Therefore, this petition is found to be *prima facie* misconceived, hence, was dismissed, along with pending applications, vide our short order

¹ Per Ijaz Ul Ahsan J. in *Syed Iqbal Hussain Shah Gillani vs. PBC & Others* reported as 2021 SCMR 425; *Muhammad Fiaz Khan vs. Ajmer Khan & Another* reported as 2010 SCMR 105.

² *Raja Muhammad Nadeem vs. The State* reported as PLD 2020 Supreme Court 282; *SECP vs. East West Insurance Company* reported as 2019 SCMR 532.

³ 212 (3) An appeal to the Supreme Court from a judgment, decree, order or sentence of an Administrative Court or Tribunal shall lie only if the Supreme Court, being satisfied that the case involves a substantial question of law of public importance, grants leave to appeal.

announced at the conclusion of the hearing in court earlier today. These are the reasons for the short order.

JUDGE

JUDGE