

IN THE HIGH COURT OF SINDH AT KARACHI

HCA No. 243 of 2015

[Pakistan International Airlines Corporation & another,
.....v.....Nadeem Lodhi]

Present

Mr. Justice Irfan Saadat Khan.

Mr. Justice Zulfiqar Ahmad Khan.

Date of Hearing : 16.08.2023
Date of Decision : 18.08.2023
Appellants through : Mr. Yousuf Makda, Advocate.
Respondent through : Mr. Mujtaba Sohail Raja, Advocate.

ORDER

Zulfiqar Ahmad Khan, J:- This appeal impugns an ex parte ad-interim order dated 27.07.2015 passed at the original side in Suit No.1389/2015 where learned counsel for the appellants admits that against such an order no application under Order XXXIX rule 4 CPC was made and, whereas, the civil suit is also still pending.

2. Brief facts of the case as narrated to us are that the respondent/plaintiff being an employee of the appellant Pakistan International Airlines Corporation (“PIAC”) was issued a show cause notice alleging that his Diploma of Associate Engineering Certificate was found to be forged. The show cause notice dated 30.06.2015 is available at page 91. Learned counsel further admits that through a dismissal letter available at page 77, the respondent /plaintiff was dismissed from the service taking stance that he did not respond to the show cause notice, but strangely at the same time PIAC also took a stance that the contents of the reply were found to be unsatisfactory and on the basis of such an ambiguity, the impugned

order was passed. Court has also been informed that the respondent/plaintiff is continuously enjoying the service and it has been brought to the Court's attention that compelling evidence that plaintiff's Diploma Certificate is not forged has also been submitted in the pending suit. Learned counsel has also emphasized that Hon'ble Supreme Court has issued directions that all those cases where degree or diploma are found to be forged or fake, timely actions are to be taken against such employees but per learned counsel on account of the interim relief provided, no further action can be taken against the plaintiff, hence a request is made that the instant appeal be allowed so that interim relief provided to the respondent/plaintiff be recalled paving way for PIAC to terminate the employee.

3. Learned counsel for the respondent/plaintiff states that while the appellants are eager to proceed with this appeal, however, at the original side, the matter is marred with their absence and in all fairness, this appeal may be disposed of with the directions to the learned Single Judge to expedite the cases which have been clubbed together already where similar relief has been provided to various individuals facing identical proceedings.

4. In the fitness of things, where this Court is cognizant of the fact that a forged degree or certificate holder should not be permitted to serve in any position, however, in the case at hand the respondent/plaintiff has seemingly an arguable case as he has submitted proof that his certificate is genuine, this controversy can only be decided after adducing evidence from both the sides and pendency of this appeal in fact is found to be counterproductive in this pursuit. We therefore, dispose of this appeal with directions to

the learned Single Judge on the original side to decide the pending suit(s) as per laws preferably within a period of three (03) months, however, in the meanwhile no coercive action be taken against the respondent/plaintiff on the basis of the alleged forged diploma certificate. As to the case laws copies of which have been supplied by the learned counsel for the appellant, none comes to his rescue as those arise out of different circumstances.

JUDGE

JUDGE

Karachi
Dated: 18.08.2023

Aadil Arab