

ORDER SHEET
IN THE HIGH COURT OF SINDH
CIRCUIT COURT MIRPURKHAS

Constitutional Petition No. D-352 of 2024

(Imam Bux Vs Federation of Pakistan and others)

DATE	ORDER WITH SIGNATURE OF JUDGE (S)
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1. For orders on office objection.
2. For hearing of main case.

12.08.2024

Mr. Nazeer Hussain Jarwar advocate for petitioner.
Mr. Nisar Ahmed G. Abro Deputy Advocate-General of Pakistan.
Mr. Habib-ur-Rahman A.D Legal NADRA, Karachi.

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Petitioner seeks reversal of his resignation tendered by him from service as Superintendent Operation Directorate, NADRA NRC Mirpurkhas,

2. Petitioner has submitted that he was appointed as an intelligence Officer Vigilance Directorate, NADRA in the year 2010 and continued his service till March 2017, however during the intervening period his Cadre was changed from intelligence officer Vigilance Directorate to the post of Superintendent Operation Directorate, NADRA NRC Mirpurkhas, however due Matrimonial affair, he became depressed and mentally upset and instead of joining duty he resigned from service in March 2017; that after tendering resignation he could not attend office, he preferred a departmental appeal which was too dismissed. He being aggrieved and dissatisfied with the aforesaid decisions filed the instant petition on 15.10.2018.

3. We have heard learned counsel for the parties and perused the material available on record and case law cited at the bar.

4. The prime question involved in this petition is whether the resignation once tendered by the Public servant voluntarily and accepted by the competent authority and communicated to him could be considered to be final and cannot be revoked afterward?

“The word resignation has been defined in Corpus Juris Scandium, Volume LXXVII on page 77 as follows:-

“Resignation: It has been said that “resignation” is a term of legal on, having legal connotations that describe certain legal results. It is characteristically the voluntary surrender of a position by the one resigning, made freely and not under duress, and the work is defined generally.”

5. When a public servant submits a letter of resignation, his service/employment stands terminated from the date on which the letter of resignation is accepted by the Competent Authority. The rule envisages as under:

6. Besides the above, Part III of Chapter-4 of the Civil Establishment Code (Volume I, II), Edition 2015, which deals with the term “Resignation from Government Service” and its effective date, which is as under:-

“(ii) Withdrawal of resignation after its acceptance but before it becomes effective (i.e. before the government servant concerned is relieved). It should be open to the authority accepting the resignation to allow the government servant concerned to withdraw the resignation on the merits of the case.”

7. Primarily, resignation is characteristically the voluntary surrender of a position by the one resigning, made freely and not under duress, here petitioner moved an application to the competent authority for withdrawal of his resignation tendered by him on 7.3.2017, after its acceptance on 20.3.2017, and the competent authority promptly acted upon such request of the petitioner. His appeal was also dismissed vide office order dated 23.5.2017. Prima facie, respondents under the law/rules/regulations were responsible for expediting the process of the resignation of the petitioner in time, failure on the part of revoking his resignation before its acceptance thereof, they could not be held responsible.

8. In view of the above legal position in our view the application of the petitioner was rightly rejected vide order dated 23.5.2017 by the Respondent NADRA, which does not require any interference.

9. The other case law cited by the Learned Counsel for the Petitioner is found to be distinguishable from the facts and circumstances of the case in hand.

10. In the light of the above discussion, the instant constitutional petition, along with the pending application(s), is dismissed as being meritless.

JUDGE

JUDGE