

IN THE HIGH COURT OF SINDH AT KARACHI

Suit 720 of 2024 : Syed Irshad Ali Shah
vs. Federation of Pakistan & Others

For the Plaintiff/s : Mr. Ovais Ali Shah, Advocate

For the Defendants/s : Mr. Khalid Rajpar, Advocate
Mr. Ghulam Mujtaba Phul, Advocate

Mr. Zia-ul-Haq Makhdoom
Additional Attorney General of Pakistan

Date/s of hearing : 11.09.2024

Date of announcement : 11.09.2024

ORDER

Agha Faisal, J. The plaintiff, *admittedly* a civil servant serving in the Federal Board of Revenue, has essentially challenged his transfer orders vide this suit.

On the last date of hearing, the plaintiff's learned counsel was confronted the objection of maintainability *inter alia* as to how a matter pertaining to terms and conditions of service of civil servants may be agitated in a civil suit; in view of the bar contained in Article 212 of the Constitution as appreciated by the Supreme Court in *Ali Azhar Baloch*¹.

The learned counsel sought time to obtain instructions and today has intimated the court that the plaintiff is not convinced that his matter falls within the jurisdiction of the service tribunal.

This court has determined a similar matter, *Nasser Janjua*², and in *mutatis mutandis* application of the reasoning and rationale assigned therein it is observed that the grievance of the plaintiff could not be adjudicated in a civil suit; in view of the bar contained in Article 212 of the Constitution, as interpreted by the Supreme Court from time to time; including in *Ali Azhar Baloch*³. Therefore, the plaint is hereby rejected per Order VII rule 11(d) CPC⁴.

Judge

¹ Per Amir Hani Muslim J in *Ali Azhar Khan Baloch vs. Province of Sindh* reported as 2015 SCMR 456; reference is also made to *Contempt Proceedings against Chief Secretary Sindh* reported as 2013 SCMR 1752.

² *Muhammad Nasser Janjua & Others vs. Federation of Pakistan & Others (Suit -1049 of 2024)* – order dated 08.08.2024.

³ Per Amir Hani Muslim J in *Ali Azhar Khan Baloch vs. Province of Sindh* reported as 2015 SCMR 456; reference is also made to *Contempt Proceedings against Chief Secretary Sindh* reported as 2013 SCMR 1752.

⁴ 11. Rejection of plaint. The plaint shall be rejected in the following cases:

...

(d) where the suit appears from the statement in the plaint to be barred by any law.