

THE HIGH COURT OF SINDH, KARACHI

Before:
Justice Mohammad Karim Khan Agha
Justice Adnan-ul-Karim Memon

CP No D-5893 of 2016

[Syed Salman Hassan & others v. Federation of Pakistan and others]

Petitioners : through Mr. Talha Abbasi advocate.
Respondents No.1 to 4 : through Ms. Zehra Sehar, Assistant Attorney General
Dates of hearing : 08-05-2025
Date of order : 08-05-2025

ORDER

Adnan-ul-Karim Memon, J. The Petitioners request this Court to issue a declaratory order stating that the letter dated October 17, 2016, stopping the salary of the petitioners working in Korangi Fishries Harbour Authority (KoFHA) is illegal, unlawful, unconstitutional, tainted with mala fides, arbitrary, discriminatory, and in violation of the principles of natural justice, equity, and fairness, and is therefore void ab initio. Furthermore, they pray for a declaration that, having been appointed by the duly authorized authority, they cannot be removed, relieved, or terminated from their service except in accordance with the due process of law.

2. The petitioners, were appointed to KoFHA (governed by the 1982 Ordinance and 1988 Regulations, headed by a federally-appointed Managing Director with personnel control), after a Ministry advertisement and due process, allege that the Secretary (Respondent No. 1) is maliciously targeting them due to animosity with the Managing Director of Respondent No. 4. This is supported by ongoing legal and criminal proceedings. The Secretary's action is the issuance of a letter dated 17-10-2016, stopping their salaries without justification, leading to fears of unlawful termination. The petitioners challenge this letter as illegal, unconstitutional, mala fide, discriminatory, and a violation of natural justice and their fundamental rights, including due process and the right to livelihood. They submitted that their lawful appointments grant them protection against arbitrary removal and seek the Court's intervention.

3. Learned counsel for the petitioners submitted that the challenged salary stoppage letter is illegal, unlawful, unconstitutional, mala fide, arbitrary, discriminatory, and violates natural justice. He argued it contravenes the principle of locus poenitentiae, as the petitioners' appointments were finalized and created

vested rights. Furthermore he asserted violations of the petitioners' fundamental rights, contending the letter was issued hastily without due process or reasoning, effectively imposing a major penalty without inquiry, and reflecting the Secretary's arbitrary actions. Counsel also alleged contempt of court due to the violation of apex court rulings and a denial of fair trial and due process under Article 10-A. Finally, he argued that the salary stoppage is a mala fide and discriminatory act violating Article 11 and depriving the petitioners of their livelihood. He prayed for allowing the instant petition.

4. Learned AAG submitted that the petitioners' appointments are illegal, contravening KoFHA's 1988 Regulations and 1982 Ordinance. The AAG refuted allegations against the former Secretary, noting his retirement on March 25, 2017. Regarding the former MD KoFHA's appointment, it was asserted to be improper and against procedure, resulting in a stayed removal directive. The AAG maintained the petitioners' appointments violated KoFHA regulations, the Ordinance, and federal policy, justifying the Ministry's actions as the supervisory authority. The petitioners' claims were argued to be unfounded in KoFHA's rules, and the principle of locus poenitentiae was inapplicable due to the initial illegality of the appointments in KoFHA. Fundamental rights claims were dismissed due to the illegal appointments. The AAG stated the Ministry correctly conveyed policy to the former MD, who then illegally appointed the petitioners. Consequently, they cannot be considered regular employees. The actions of Respondent No. 2 were defended as compliant with regulations, and no violation of apex court rulings by Respondent No. 1 occurred. The petitioners' appointments are deemed void from inception due to legal violations. The AAG concluded by stating that the petitioners concealed facts and requested the petition's dismissal with costs on behalf of the Respondent ministry.

5. The stance of the respondent/4 KoFHA is that KoFHA, an autonomous body under the Ministry operating under the 1982 Ordinance and 1988 Regulations, acknowledges the petitioners' appointments followed due process. While Petitioner No. 1's (BPS-17) confirmation is pending Board reconstitution, Petitioners No. 2-5 (BPS-16) have completed probation and deserved confirmation. The AAG highlighted KoFHA's assertion that the Ministry, including the DG Ports & Shipping, was involved in the selection without initial objections. KoFHA recognizes the petitioners' dedicated service and the ongoing legal issues between the former Secretary and the Managing Director. The respondent No.4 submitted that the KoFHA's clarification that salaries were reinstated post-court order and that appointments were transparent and aligned with regulations and Ministry criteria, with the Ministry informed throughout. KoFHA's position is that it did not issue the salary stoppage letter and has taken

no adverse action, largely refraining from commenting on the petition's grounds as it was not their action. Regarding the prayer, KoFHA maintains that the recruitment was transparent and lawful, thus, the petitioners may not be terminated based on the Ministry's directives.

6. We have heard the learned counsel for the parties and perused the record with their assistance.

7. The petitioners claim lawful employment and peaceful performance of duties, yet their salaries were stopped by a Deputy Secretary's order (17.10.2016), and they fear termination based on another letter (03.10.2016). Their counsel highlighted a KoFHA General Manager's letter affirming transparent recruitment following Ministry criteria. Given the differing stances of the respondent-Ministry and KoFHA, this issue needs resolution by these two government departments within three months after hearing the petitioners. Meanwhile, the petitioners shall continue to serve their respective jobs.

8. This petition is disposed of accordingly.

JUDGE

HEAD OF CONST. BENCHES

SHAFI