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NO.C.A.74-K/2018-SCJ
IN
NO:C.P.610-K/2018-SCJ
SUPREME COURT OF PAKISTAN

KARACHI, the 04th Nov, 2018

FROM:

The Senior Court Associate,
Supreme Court of Pakistan,
M.R. Kiyani Road, Karachi.

To,

The Worthy Registrar
High Court of Sindh,
Karachi

INWARD TO

REGISTRAR

DATE

14858
R/10
05/12/18

SUBJECT:-

CIVIL APPEAL NO: 74 - K OF 2018
IN


CIVIL PETITION NO: 610 - K OF 2018
(Chairman Port Qasim Authority Bin Qasim
& Ors. Vs. Federation of Pakistan & Ors)

On appeal from the Judgement and order of the
High Court of Sindh, Karachi dated 14-02-2018,
in C.P.No.D-608/2015

I am directed to enclose herewith for information and necessary action
a certified copy of Order of this Court dated 15-08-2018, converting the above-cited
petition into an appeal and allowed.

I am also to invite your attention to the direction of this Court
contained in the enclosed order for immediate necessary action.

The receipt of this letter alongwith its enclosure may kindly be
acknowledged.


(SYED ZAFAR ALI)
SENIOR COURT ASSOCIATE

Encl: 1) Certified copy of Order.

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IN THE SUPREME COURT OF PAKISTAN

(Appellate Jurisdiction)

Present:

Mr. Justice Mushir Alam
Mr. Justice Mazhar Alam Khan Miankhel
Mr. Justice Munib Akhtar

Civil Petition No.610-K of 2018

Against the judgment dated 14.02.2018
passed by the High Court of Sindh,
Karachi in Const.P. No.D-608 of 2015.

The Chairman Port Qasim Authority
Bin Qasim and others. Petitioner(s)

VERSUS

Federation of Pakistan thr. its Secy:
M/o Ports and Shipping and others Respondent(s)

For the Petitioner(s) : Mr. Khalid Mahmood Siddiqui, ASC
Mr. Ghulam Rasool Mangi, AOR

For the Respondent(s) : Mr Abdul Salam Memon, ASC

Date of Hearing : 15.08.2018

ORDER

Mushir Alam, J-. Petitioners have impugned the judgment dated 14.02.2018 whereby the condition imposed through office order dated 11.02.2009 available at page 57 were declared to be "without any legal and lawful justification". Petitioners were Stock Auditor/Stock Verifier in BPS-15 who have rendered more than 18 years' service in the Financial Division and Internal Audit Department in one scale were upgraded to BPS-17 as Deputy Manager vide Office Order dated 17.01.2009.

2. It seems that later on 11.02.2009 through another Office Order dated following conditionalities were added: -

"2. The up-gradation will be personal to the officers and upon their retirement, the post shall be deemed to have been reverted to its original position.

ATTORNEY

Senior Court Associate
Supreme Court of Pakistan
Karachi.

3. On their up-gradation they will continue to perform their duties in their present capacity i.e. Stock Auditor/ Stock Verifier BS-17.

4. They will also not claim any seniority/promotion of BS-17 officers.

5. In case of any officer apply for re-designation or change of cadre he will cease to enjoy the benefits of up-gradation.

6. This issues with the approval of the Chairman.”


2. It was urged by the learned ASC for the petitioner that such conditionality does not affect or prejudice any right and or interest of the respondents, therefore, impugned judgment cannot be sustained. Learned counsel for the respondent in rebuttal urged that adding such conditionality will prejudice and affect their rights which may also have effect on their pensionary benefits, thus rightly held to be illegal.

3. Mr. Khalid Mahmood Siddiqui, learned counsel for the petitioner is in attendance urged that the concern of the respondent is ill-founded in the terms of Regulation No.56 of the Port Qasim Authority Employees Service Regulations, 2011, which, *inter alia*, provides: -

“56 **Retirement from Service and Admissibility of Terminal Benefits**

The Federal Government Regulations relating to retirement from service and admissibility of terminal benefits including pension, gratuity, invalidation etc. as applicable to Federal Government employees shall mutatis mutandis apply to PQA employees.”


4. The pensionary benefits on superannuation are calculated on the last pay drawn. It is further stated that since all the service dues as deducted from the salary paid is on the basis of the last drawn salary, therefore, the emoluments on superannuation would be adjudged on the basis of last drawn salary.

ATTESTED

Senior Court Associate
Supreme Court of Pakistan
Karachi.

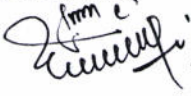
5. We have heard the learned counsels and perused the record. Concern of the respondent is well taken care of and stand addressed through Regulation No.56 ibid as reproduced above. In this view of the matter impugned judgment is set aside. Accordingly, this petition is converted into appeal and allowed.

Sd/- Mushir Alam, J.
Sd/- Mazhar Alam Khan Miankhal, J.
Sd/- Munib Akhtar, J.

CERTIFIED TO BE TRUE COPY


4/12/18
Senior Court Associate
Supreme Court of Pakistan
Karachi.

Karachi, the
15th of August, 2018
Syed Farhan Ali


01/12/18