

IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)

PRESENT:

MR. JUSTICE GULZAR AHMED
MR. JUSTICE SARDAR TARIQ MASOOD
MR. JUSTICE FAISAL ARAB

CIVIL PETITION NOS. 3728 & 4385 OF 2017

(On appeal against the judgment dated 03.10.2017 passed by the Peshawar High Court, Peshawar in Writ Petition Nos. 3013-P & 3318-P of 2017)

Syed Liaqat Shah

(In both cases)

... Petitioner

VERSUS

1. Vice Chancellor, University of
Engineering & Technology, Peshawar etc (In CP 3728/2017)

2. Chairman, Chief Minister Complaint &
Redressal Cell, Peshawar etc (In CP 4385/2017)

... Respondents

For the Petitioner: Mr. Muhammad Shoaib Shaheen, ASC
Mr. Ahmad Nawaz Chaudhry, AOR

For the Respondents: N.R.

Date of Hearing: 09.07.2018

JUDGMENT

FAISAL ARAB, J.- In December, 2014, the respondent University appointed the petitioner on contract basis as Project Director on its ongoing project of Jalozai Campus for a period of six months. His term of office was later extended from time to time. During subsistence of his last contractual tenure, he was relieved on 20.07.2017 in pursuance of Chief Minister's Complaint & Redressal Cell Peshawar's letter dated 13.07.2017. The Chief Minister's cell wanted that the university should probe into the allegations leveled against the petitioner in the performance of his duties as Project Director. In this regard, the respondent constituted a three member inquiry committee.

2. Soon after the petitioner was relieved, he filed two constitution petitions in the Peshawar High Court seeking reliefs (i) that direction be given for the continuation of his employment as Project Director; (ii) that the notification whereby the inquiry committee was constituted be declared nullity in the eyes of law and (iii) the Chairman, Chief Minister's Complaint and Redressal Cell be directed to stop interfering in the affairs of Federal Government funded projects. The said petitions were dismissed by the High Court on the ground that as the services of the petitioner were contractual, its tenure was not protected under any law. However, in order to ensure that no stigma is attached to petitioner's performance as Project Director in his absence, it was directed that a proper opportunity of hearing should be given to the petitioner to enable him to defend himself in the pending inquiry proceedings. Having failed to secure any of the reliefs which the petitioner sought from the High Court, present petitions for leave to appeal have been filed.

3. Before this Court, learned counsel for the petitioner though conceded that the petitioner being a contractual employee his employment tenure was not legally protected, it was submitted that now that the petitioner has been relieved from his job, it is strange that inquiry is being conducted against him.

4. We are of the view that relieving a contractual employee simplicitor does not mean that any wrongdoing committed by him during his contractual period cannot be

inquired into. If found involved in any wrongdoing, he can still face civil liability or criminal action or both, notwithstanding the fact that he has been relieved from his contractual post. Only where the tenure of service of an employee is protected under a law, it cannot be curtailed without first initiating and completing disciplinary proceedings against him. However, where wrongdoing of a contractual employee comes to light, who is governed by the principle of "Master and servant", he can be relieved of his service first and inquiry into his wrongdoings can commence thereafter. Termination of contractual employment simpliciter is no defence either against taking a criminal or civil action that might be warranted on account of any wrongdoing committed during the contractual period.

5. It is also ludicrous to say that as the project was funded by Federal Government, therefore, no action could be taken on the basis of a report of Chief Minister's Complaint and Redressal Cell. Any credible information of a wrongdoing coming from any source can be made basis of a legal action by the competent authority. Hence, where the competent authority in its discretion considers that there is substance in the allegation, it can either order a fact finding inquiry or take such other action as is permissible under the law. The petitioner being contractual employee was relieved from his office as Project Director in pursuance of the letter written by the Chief Minister's Complaint and Redressal Cell, Peshawar and immediately an inquiry committee was constituted to probe into the allegations of wrongdoings committed by the petitioner in his capacity as Project

Director. We find no legal infirmity in the adoption of such a course of action. The learned High Court has already granted enough concession to the petitioner by directing the university to grant him audience in the pending inquiry.

6. We, therefore, find no reason to interfere in the impugned judgment. These petitions having no merit are accordingly dismissed and leave is refused.

JUDGE

JUDGE

JUDGE

Islamabad, the
9th of July, 2018
Approved For Reporting
Khurram