

JUDGMENT

Through this writ petition, the petitioner has prayed for following relief:-

"In the circumstances, it is, therefore, very humbly prayed that by allowing/accepting the instant constitutional petition, verbal termination of the petitioner may kindly be set-aside and petitioner be re-instated in his service with all back-benefits w.e.f. 20-06-2019 up to till date.

Further the official respondents may also be directed to appoint/adjust the petitioner in his previous place of posting i.e. at mari rig 3 gujar khan in the interest of justice.

That any other relief which this Hon 'able court deems appropriate may also graciously be granted to the petitioner in the interest of justice."

2. Learned counsel for the petitioner contends that the petitioner was appointed on contract basis as Junior Admin Assistant on 05.09.2014 in Mari Petroleum Company Ltd., however, the said contract of 1 year was extended time to time basis and the last valid period of the contract expired on 30.06.2019; that on 13.06.2019 the petitioner was arrested in criminal case FIR No.09/2019, under sections 16/20/21 PECA, 2016, P.S FIA Cyber Crime Circle (NR3C) Karachi; that the petitioner was on leave and he was incarcerated in Central Jail Karachi till the time the proceedings were stopped under section 249-A, Cr.P.C. and he was discharged by the competent Court vide order dated 25.02.2020; that the petitioner has attained permanent status on the basis of regularization policy announced by Government of Pakistan Establishment Division vide O.M dated 11.05.2017, which is applicable to the respondents company, in which Government of Pakistan including OGDCL has controlling share, as such the petitioner's services could not be terminated without affording him an opportunity of hearing, which itself is violation of Article 10-A of the Constitution of Islamic Republic of Pakistan 1973. Learned counsel for the petitioner has relied upon 2019 PLC (C.S.) 41 (Kamran Ahmed and others v. FOP through Secretary Ministry of Petroleum and Natural Resources and others) and 2012 PLC (C.S.) 807 (Muhammad Tanveer v. Government of Pakistan and others).

3. Conversely, learned counsel for respondents Nos.1 to 5/Mari Petroleum Company Ltd. has raised objection on the maintainability of the instant writ petition and contends that the petitioner is contract employee and under the terms of the contract his services can be terminated without giving any reason although he was absent from his duty on 13.06.2019 and the respondents authorities terminated his services while considering the principle of master and servant; that the company is private limited company having 18.48% shares owned by Government of Pakistan, 40% by Fauji Foundation, 20% by OGDCL and 21.06% by general public as such its rules are non-statutory and the instant writ petition is not competent.

4. I have heard the arguments and perused the record.

5. Perusal of the record reveals that the petitioner was appointed on 05.09.2014 as Junior Admin Assistant in Mari Company Ltd. on contract basis, whereas the terms of the contract clearly spell out that the contract was for 1 year and even it has not been denied by the petitioner that contract was extended on yearly basis on same conditions. The terms and conditions of employment appended with this writ petition also disclose that all the rules and regulations of the company are non-statutory and as such the question of maintainability of instant writ petition has rightly been agitated by the respondents side. The petitioner has heavily relied on O.M. dated 11.05.2017 issued by Government of Pakistan Establishment Division, whereby services of the employees were regularized, who were working on contract basis with Ministries, Divisions, Autonomous, Semi Copy Autonomous, Companies and Corporations etc, and contends that his services be regularized while relying upon 2019 PLC (C.S.) 41 (Kamran Ahmed Mallah and others v. FOP through Secretary Ministry of Petroleum and Natural Resources and others). There is no cavil to the proposition that Government of Pakistan regularized services of different individuals through Cabinet Sub-Committee. Kamran Ahmed Mallah case supra deals with the employees of SSGCL, in which Government and other state entities jointly own more than 67% of shares and even 11 out of 14 Directors on its Board are nominees of Government, its status has also been confirmed in case reported

as PLD 2014 SC 206 (Khawaja Muhammad Asif v. FOP) as such the said company was performing its functions in connection with the affairs of Federation, which is different from the petitioner's case.

6. While considering this background, I have gone through the prayer made by the petitioner in which he has not sought regularization of his services rather the petitioner has assailed the termination of his services, which is altogether different issue, however, when learned counsel for the petitioner has been confronted as to why the petitioner kept silent after issuance of O.M dated 11.05.2017 by Government of Pakistan regarding regularization of services of contract/daily wages employees of Ministries, Divisions/Corporations, he has candidly conceded that the petitioner was waiting for right time to apply for regularization, therefore, at this stage this Court will not consider the request for regularization of services of the petitioner.

7. The shares ratio referred in para 5 above reflects that Government of Pakistan has no controlling share in respondent company and even rules are non-statutory. The relationship between the petitioner and respondents company is of master and servant which has been confirmed from the terms and conditions of the contract, even contract appointment does not confer any right of regular appointment under any circumstances unless the Board of Directors of the company regulate this issue and come to the conclusion that services of contract employees are to be regularized. Reference in this regard is 2019 PLC (C.S.) N 19 Islamabad (Imran Ahmed v. Federation of Pakistan). The question of termination of service of the petitioner by the respondents company cannot be agitated under Article 199 of the Constitution of Islamic Republic of Pakistan as the petitioner is governed under master and servant relationship, who can approach the Court of plenary jurisdiction to file suit for damages. Reliance is placed upon 2020 PLC (C.S.) 86 (First Women Bank Ltd. through Attorney v. Muhammad Tayyab and others). The reinstatement of service through writ petition has also been depreciated by Apex Court in judgment reported as 2009 SCMR 109 (Gohar Ali and another v. Messrs Hoechst Pakistan Limited) and it has now been settled that employees of corporation or company in the absence of violation of law or non-statutory rules cannot invoke Constitutional jurisdiction of High Court. Reliance is placed upon PLD 2005 SC 806 (Pakistan Red Crescent Society and another v. Syed Nazir Gillani) and 2019 SCMR 278 (Pakistan Airline Pilots Association and others v. Pakistan International Airline and another).

8. In view of above discussion, the instant writ petition is not maintainable, therefore, same is hereby dismissed.

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