

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

MR. JUSTICE UMAR ATA BANDIAL
MR. JUSTICE IJAZ UL AHSAN

AFR

Civil Petition No.1170 of 2018
Against judgment dated 13.02.2018 passed
by the Punjab Service Tribunal, Lahore in
Appeal No.540 of 2018.

Dr. Azad Hussain.

...Petitioner(s).

Versus

The Deputy Commissioner, Rawalpindi, etc.

...Respondent(s)

For the petitioner(s): In person.

For the respondent(s): N.R.

Date of Hearing: 13.11.2019.

ORDER

IJAZ UL AHSAN, J.- The petitioner seeks leave to appeal against a judgment of the Punjab Service Tribunal, Lahore, dated 13.02.2018, through which an appeal (*Appeal No.540 of 2018*) under Section 4 of the Punjab Service Tribunals Act, 1974 filed by him was dismissed.

2. The petitioner joined the Education Department, Government of Punjab and held various posts. In 2014, some posts of Assistant Professors (Maths) (*on tenure track basis*) for the University of Science and Technology, Bannu, Khyber Pakhtunkhwa ("**Bannu University**") were advertised in the press. The petitioner applied for one of the said posts and was selected. He moved an application with the Executive District Officer (Education), Rawalpindi seeking to be relieved of his

duties with the Education Department, Government of Punjab. He was accordingly relieved, whereafter he joined the Bannu University. He was also granted 'No Objection Certificate' by the Headmaster of the School where he was working as an SST as well as by the Education Department, Government of Punjab. He was also allowed to retain his lien in the Education Department for such time as the relevant Rules may permit.

3. It appears that subsequently, the petitioner joined the University of Gujrat in April, 2016. He moved an application with the Executive District Officer (Education), Rawalpindi for extension of his lien for a further period of three years which request was declined by the Department. His other request for being permitted to return to his parent department was also declined. He challenged such denial before the Chief Executive Officer, District Education Authority, Rawalpindi by way of a departmental appeal which was not decided. This prompted him to approach the Service Tribunal seeking extension of the period of his lien. Such relief was declined in terms of Rule 7-A of the Punjab Civil Servants (Appointment & Conditions of Service) Rules, 1974. Hence, this petition.

4. We have heard the petitioner in person at length and gone through the record. The meaning and scope of Rule 7-A *ibid* is clear and unambiguous which for ease of reference is reproduce below:

"7-A. Lien.- Notwithstanding anything in any other rules, a confirmed civil servant shall acquire lien against the substantive post held by him when he is relieved as a consequence of his selection against some other post, cadre or service in the service of Pakistan, and he shall retain his lien in the relieving department until he is confirmed in the said other post, cadre or service or for a maximum period of three years whichever is earlier and the said period of lien shall in no case be extended."

5. It is a clear and obvious from a plain reading of the said Rule that lien with the parent department can be retained for a maximum period of three years and cannot be extended beyond such period. The language of Rule 7-A *ibid* is couched in mandatory terms and neither the Department nor the Service Tribunal had the power or jurisdiction to extend the period of such lien beyond the maximum term of three years as prescribed by the Rules.

6. As far as petitioner's request for permission to return to his parent department is concerned, the said plea does not appear to have been pressed by him before the Service Tribunal. As such, no mention of the same appears in the impugned judgment. We have gone through the contents of the appeal and find that no challenge was thrown against the order declining permission to return to the parent department in view of the fact that the petitioner had admittedly moved from Bannu University to the University of Gujrat without authorization or appropriate permission/NOC from the parent department. A feeble attempt was made to agitate the matter before the Service Tribunal by adding a handwritten additional ground and adding an additional

prayer. This was obviously an afterthought and not of much avail. The letter of the competent person declining permission to return to the parent department was well reasoned. The petitioner failed to point out any error or flaw in the same.

7. The petitioner has not been able to persuade us to hold that the maximum time for retaining lien in the parent department can be extended. Further, he has not been able to show any legal, procedural or jurisdictional error, defect or flaw in the impugned judgment of the Service Tribunal. We are also not convinced that the petition raises a substantial question of law of public importance within the meaning of Article 212(3) of the Constitution of the Islamic Republic of Pakistan, 1973 that may necessitate grant of leave to appeal.

8. For the aforementioned reasons, we do not find any merit in this petition. It is accordingly dismissed. Leave to appeal is refused.

ISLAMABAD, THE

13.11.2019.

ZR/*

'Not Approved For Reporting'

QAD
5/12/19
15/12

