

SUPREME COURT OF PAKISTAN
(Review Jurisdiction)

Bench - II:

Mr. Justice Syed Mansoor Ali Shah
Mr. Justice Muhammad Ali Mazhar

Civil Review Petition No.1077/2023

(Against the order dated 08.01.2023 passed
in C.M. Appeal No.157/2022)

Muhammad Ashraf

... Petitioner

Versus

The Chief Engineer (Administration), WAPDA, and others

... Respondents

For the Petitioner: Petitioner in person.

For the Respondents: N.R.

Date of hearing: 31 May 2024

ORDER

Syed Mansoor Ali Shah, J.- Through the present review petition, the petitioner seeks a review of the order dated 8 November 2023 passed by one of us (Syed Mansoor Ali Shah, J.) whereby his appeal filed against an order of the Registrar, dated 27 May 2022, was dismissed and the said order was maintained. By order dated 27 May 2022, the Registrar had returned being not entertainable a CMA of the petitioner filed for restoration of his CMA No.2384/2022.

2. Briefly, the background facts that have given rise to the present review petition are as follows: By its order dated 3 May 2019, the Federal Service Tribunal dismissed the petitioner's service appeal regarding his annual increments, pensionary benefits, etc., for the period he remained dismissed from service. He filed a petition for leave to appeal (CPLA 3020/2019) against that order in this Court and also filed a review petition before the Tribunal. The Tribunal dismissed his review petition by its order dated 17 July 2019. Against this order, the petitioner filed another petition for leave to appeal (CPLA 3774/2019).

3. The present review petition pertains to the second CPLA, i.e., CPLA 3774/2019. This CPLA was dismissed by a two-member Bench on 5 October 2021, for non-prosecution and for being time-barred.

Instead of filing a review petition, since the CPLA had been dismissed on the ground of being time-barred also, the petitioner filed an application (CMA 12715/2021) for restoration of the said CPLA. Although this application was not entertainable in view of the law declared in *Fazal Muhammad*,¹ the office wrongly received and registered it. Anyhow, CMA 12715/2021 was also dismissed by a two-member Bench for non-prosecution on 1 February 2022.

4. The petitioner then filed an application (CMA 2384/2022) for the restoration of CMA 12715/2021. This second application was dismissed by a two-member Bench on 10 May 2022, for non-prosecution and for being non-maintainable. Again, instead of filing a review petition, since CMA 2384/2022 had been dismissed on the ground of being non-maintainable also, the petitioner filed an application (CMA) for the restoration of CMA 2384/2022. The Registrar returned this application for being not entertainable by order dated 27 May 2022, and the petitioner's appeal against this order of the Registrar was dismissed by one of us (Syed Mansoor Ali Shah, J.) *vide* order dated 8 November 2023. Hence, the petitioner has filed this review petition.

5. We have heard the petitioner who appeared in person and examined the record of the case.

6. Both the Registrar's original order returning the petitioner's CMA and the appellate order maintaining that order were administrative in nature.² Therefore, we asked the petitioner to specify under which provision of the Constitution³ or the Rules⁴ he has filed the present review petition. He, however, could not cite any such provision. It hardly needs clarification that Article 188 of the Constitution and Order 26 of the Rules pertain to the review of judicial orders, not administrative orders. The misunderstanding of the petitioner, who has filed the present review petition in person without obtaining any legal advice, is understandable. But, it is surprising that the office has entertained the present review petition despite there

¹ *Fazal Muhammad v. State* PLD 1987 SC 273.

² See *Qausain Faisal v. Federation of Pakistan* PLD 2022 SC 675; *Ahsan Abid v. Khusrul Bakhtiar* PLD 2022 SC 712.

³ The Constitution of the Islamic Republic of Pakistan.

⁴ The Supreme Court Rules 1980.

being no provision for such a review petition in either the Constitution or the Rules.

7. As held by this Court in *Fazal Muhammad*⁵ on the judicial side and reiterated in *Ahsan Abid*⁶ on the administrative side, a petition that does not fall within the scope of any provision of the Constitution, the law or the Rules is "frivolous" and should not be received/entertained by the Registrar, as per Rule 5 of Order 17 of the Rules. The office must be vigilant about this legal position and perform its administrative duty in this regard with due diligence.

8. The present review petition is neither entertainable nor maintainable under any provision of the Constitution or the Rules. It is, therefore, dismissed.

Judge

Judge

Islamabad,
31st May, 2024.
Approved for reporting
Iqbal

⁵ *Fazal Muhammad v. State* PLD 1987 SC 273.

⁶ *Ahsan Abid v. Khusru Bakhtiar* PLD 2022 SC 712.