

1998 S C M R 516

[Supreme Court of Pakistan]

Present: Fazal Ilahi Khan, Zia Mahmood Mirza and Raja Afrasiab Khan, JJ

AKHLAQ AHMAD---Petitioner

versus

SECRETARY TO THE GOVERNMENT OF PUNJAB, LOCAL GOVERNMENT AND RURAL DEVELOPMENT DEPARTMENT, LAHORE and 2 others---Respondents

Civil Petition for Leave to Appeal No. 1190 of 1996, decided on 16th April, 1996.

(On appeal from the order of the Lahore High Court dated 18-3-1996 passed in W.P. 4387 of 1996).

Ghulam Mahmood Qureshi, Advocate Supreme Court with Mahmood A. Qureshi, Advocate-on-Record for Petitioner.

Nemo for Respondents.

Date of hearing: 16th April, 1996.

ORDER

RAJA AFRASIAB KHAN, J.---On 25th of October, 1995, the respondent, Secretary Local Government and Rural Development/Chairman, Punjab Local Government Board, posted Akhlaq Ahmad (BS-16), the petitioner as Taxation Officer Zila Council, Rawalpindi against a vacant post with immediate effect in public interest. On 5th of November, 1995 only after ten days, the respondent, Tauseef Ahmad (BS-16) was transferred and posted in place of the petitioner who, in turn, was directed to report to Punjab Local Government Board for his further posting. The said order was, however, cancelled with immediate effect on 12th of November, 1995. The respondent No.3 assailed the order, dated 12th of November, 1995 by filing constitution petition in the Lahore High Court Rawalpindi Bench which was dismissed by a learned Judge vide his order, dated 25th of February, 1996. It is submitted that the respondent succeeded to influence the people in power to allow him to remain at his present place of posting without any legal justification. Attention of the Court was drawn to communication, dated 26th of February, 1996 having been placed on record at page 28 of the paper book to support the plea of the petitioner. It appears that the aforesaid recommendation was accepted and the respondent was allowed to continue as Taxation Officer, on the basis of order, dated 6-3-1996. This order was assailed by the petitioner by filing writ petition in the Lahore High Court

which was dismissed by a learned Judge vide order, dated 18th of March, 1996. This petition seeking leave to appeal has been instituted by the petitioner to call in question the said order.

2. According to learned counsel, the impugned order, dated 6th of March, 1996 is violative of the law declared by this Court in *Zahid Akhtar. v. Government of Punjab and 2 others* (PLD 1995 SC 530). He adds that on the controversy, leave was granted by this Court vide *Syed Mazhar Hussain Bokhari. v. Secretary to the Government of Punjab, Local Government and Rural Development Department* (1996 SCMR 59). In such a situation, learned counsel claims that the respondent, authority was not competent to pass the impugned order against the petitioner under the influence of some other incompetent authority. Learned Advocate-General Punjab was asked to appear before the Court after receiving instructions. He was also heard by us. He has no objection if the case is sent back to the High Court so that it may be dealt with according to the case law referred to above.

3. It is evident that the above-quoted law had not been taken into consideration by the learned High Court. Needless to state that the law declared by this Court, would bind all the Judicial and Executive Authorities throughout A Pakistan. See *Syed Sajjad Hussain v. Secretary Establishment Division* (C.A. 274 of 1993). In other words, the petition of the petitioner shall be deemed to be still pending for its decision in accordance with law. With this observation, this petition is converted into appeal and allowed.

Case remanded.