

Present: Syed Mansoor Ali Shah and Muhammad Ali Mazhar, JJ

MUHAMMAD ASHRAF---Petitioner

Versus

The CHIEF ENGINEER (ADMINISTRATION), WAPDA and others---Respondents

Civil Review Petition No. 1077 of 2023, decided on 31st May, 2024.

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

(a) Constitution of Pakistan---

---Art. 188---Supreme Court Rules, 1980, O.XXVI, R. 1---Review jurisdiction of the Supreme Court---Scope---Registrar's original order returning a petition (for leave to appeal) and the Judge-in-Chambers's appellate order maintaining it are both administrative in nature---Review petition against these orders is not entertainable, as Article 188 of the Constitution and Order XXVI of the Supreme Court Rules, 1980 pertain to the review of judicial orders, not administrative orders.

Fazal Muhammad v. State PLD 1987 SC 273; Qausain Faisal v. Federation of Pakistan PLD 2022 SC 675 and Ahsan Abid v. Khusru Bakhtiar PLD 2022 SC 712 ref.

(b) Supreme Court Rules, 1980---

---O.XVII, R. 5---Petition filed before the Supreme Court---Frivolous petition---Registrar, duty of---Scope---Petition that does not fall within the scope of any provision of the Constitution, the law or the Supreme Court Rules, 1980 ('the Rules') is "frivolous" and should not be received/entertained by the Registrar, as per Rule 5 of Order XVII of the Rules---Office must be vigilant about this legal position and perform its administrative duty in this regard with due diligence.

Fazal Muhammad v. State PLD 1987 SC 273 and Ahsan Abid v. Khusru Bakhtiar PLD 2022 SC 712 ref.

Petitioner in person.

Nemo for Respondents.

Date of hearing: 31st 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 C.M.A. 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 (C.P.L.A. 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 (C.P.L.A. 3774/ 2019).

3. The present review petition pertains to the second CPLA, i.e., C.P.L.A. 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 (C.M.A. 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, C.M.A. 12715/2021 was also dismissed by a two-member Bench for non-prosecution on 1 February 2022.

4. The petitioner then filed an application (C.M.A. 2384/2022) for the restoration of C.M.A. 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 C.M.A. 2384/2022 had been dismissed on the ground of being non-maintainable also, the petitioner filed an application (C.M.A.) for the restoration of C.M.A. 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 being no provision for such a review petition in either the Constitution or the Rules.

7. As held by this Court in Fazal Muhammad⁵ on the judicial side and reiterated in Ahsan Abid⁶ 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.

MWA/M-24/SC Review dismissed.