

SUPREME COURT OF AZAD JAMMU AND KASHMIR
(Appellate Jurisdiction)

PRESENT

Ch. Muhammad Ibrahim Zia, C.J.
Raja Saeed Akram Khan, J.

Civil Appeal No. 232 of 2016
(PLA filed on 11.08.2016)

Mujahid Hussain Conductor Govt. Post Graduate
College Bhimber, Tehsil and District Bhimber.

.... APPELLANT

VERSUS

1. Director Public Instruction Colleges, having his office at New District Complex, Muzaffarabad.
2. Principal Govt. Post Graduate College, District Bhimber.
3. Principal Model Science College, Bhimber.
4. Principal Ghazi Elahi Bakhsh, Govt. Girls Degree College, Mirpur.
5. Muhammad Bashir Lab Attendant Ghazi Elahi Bakhsh, Govt. Boys Degree College, Mirpur.

..... RESPONDENTS

(On appeal from the order of the Service Tribunal
dated 03.08.2016 in Service Appeal No. 729/2016)

FOR THE APPELLANT: Mr. Jamshed Ahmed
Butt, Advocate.

FOR RESPONDENT NO.5: Mr. Mujahid Hussain
Naqvi, Advocate.

Date of hearing: 07.03.2017

JUDGMENT:

Ch. Muhammad Ibrahim Zia, C.J.— Vide impugned departmental order dated 03.06.2016 the appellant, who was serving as Conductor in Govt. Post Graduate College, Bhimber, was transferred as Naib Qasid to Government Model Science College, Bhimber, whereas, respondent No.5 who was serving as Lab Attendant, was transferred at his place. The appellant was relieved off through order dated 21.06.2016 with the direction to join his new place of posting. He challenged both the orders by way of appeal before the Service Tribunal and also moved an application for interim relief. The learned Service Tribunal initially suspended the impugned orders vide order dated 24.06.2016, however, after having objections recalled the same through the impugned order.

2. Mr. Jamshed Ahmed Butt, Advocate, the learned counsel for the appellant after narration of necessary facts submitted that the impugned order passed by the learned Service Tribunal is against law

and facts. The Service Tribunal has not properly appreciated the proposition involved in this case. Mere passing of interim injunction in some other case by the High Court creates no bar on the Service Tribunal. This principle of law has been enunciated by this Court in a number of cases but the same has been violated by the learned Service Tribunal. He also filed an application for correction of words in the memo of appeal which occurred due to typing mistake.

3. Mr. Mujahid Hussain Naqvi, Advocate, the learned counsel for the contesting respondent seriously opposed the appeal on the ground that the main appeal on merits has yet to be decided by the Service Tribunal. The Service Tribunal has rightly passed the impugned order otherwise hardships and anomalous situation might have been created as the same matter is subjudice before the High Court. The appellant has got no locus standi or cause of action. So far as the application for correction of memo of appeal is concerned, it is ambiguous. There is no paragraph 7 in the prayer clause. The appellant has

carelessly filed the application without proper care and caution, hence, on this sole ground the same is liable to be dismissed.

4. We have considered the arguments advanced by the learned counsel for the parties and examined the record made available. The proposition raised in this appeal relates to the remedy of interim injunction. In our considered view, the deliberation on the question of interim relief will not serve any useful purpose rather the disposal of main appeal on merit will bring fruits for the parties. As a considerable time has already been elapsed, therefore, for the best interest of the parties and efficacious redressal of the grievance, the Service Tribunal is directed to dispose of the main appeal on merit within a period of two months from communication of this order.

With these observations this appeal stands disposed of with no order as to costs.

Muzaffarabad,
___ .03.2017

CHIEF JUSTICE

JUDGE