

**IN THE SUPREME COURT OF AZAD JAMMU AND KASHMIR**  
(Appellate Jurisdiction)

**PRESENT:**

MR. JUSTICE KHAWAJA M. NASIM  
MR. JUSTICE RAZA ALI KHAN

**CIVIL PLA No. 51 OF 2022**

(Against the judgment dated 26.08.2022, passed by the High Court in writ petition No. 34 of 2022)

Muhammad Zaffar,

...Petitioner

**VERSUS**

Divisional Director, Elementary and Secondary Education School (Male), Poonch Division, Rawalakot and 5 others.

...Respondents

**Appearances:**

For the Petitioners: Ch. Muhammad Riaz, Advocate.

For the Respondents: Nemo.

Date of hearing: 19.05.2023

**ORDER:**

**Raza Ali Khan, J:-** This petition for leave to appeal has been directed against the judgment of the High Court dated 26.08.2022, whereby, the writ petition filed by the petitioner, herein, has been dismissed.

2. The brief facts of the case are that the petitioner, herein, was appointed as Arabic Teacher on a temporary basis vide order dated 01.01.2003. Thereafter, he was promoted in BPS-14 vide order dated 08.03.2003, however, in the year 2008, the post held by him was advertised by the official respondents. In consequence thereof, the petitioner's services were terminated vide order dated 05.10.2018. The petitioner challenged the said order before the Service Tribunal by filing an appeal. The learned Service Tribunal after hearing the parties dismissed the appeal vide judgment dated 15.01.2019. Against the aforesaid judgment the petitioner, herein, filed an appeal before this Court which also met the same fate and was dismissed vide judgment dated 05.12.2019. Thereafter, he again challenged his termination order dated 05.10.2018, before the High Court by filing a writ petition, however, the learned High Court dismissed the writ petition through the impugned judgment dated 26.08.2022.

3. The learned counsel for the petitioner after narration of the necessary facts submitted that the impugned judgment of the High Court is against law, the facts and the record of the case. He submitted that the petitioner was appointed after due process of law and performed sixteen years of service in the department but the official respondents with malafide intention terminated the service of the petitioner and advertised the post for permanent induction. He further submitted that the impugned termination order has been issued in sheer violation of the law, therefore, the same is liable to be set-aside. He stated that the learned High Court without considering the record of the case dismissed the writ petition which is not maintainable. He finally submitted

that these are important questions of public importance justifying grant of leave.

4. We have heard the learned counsel for the petitioner and gone through the record of the case. It transpires from the record that the petitioner was initially appointed as Arabic Teacher on a temporary basis, however, he was terminated from the service vide order dated 08.03.2003, on account of re-advertisement of the post for permanent appointment. Ultimately, he approached the Service Tribunal by challenging the aforesaid order dated 08.03.2003, but the Service Tribunal dismissed the appeal. The petitioner, herein, preferred an appeal before this Court against the judgment of the Service Tribunal but the same was also dismissed by this Court vide judgment dated 05.12.2019, with the following observations: -

“A perusal of the above would show that the appellant, herein, was appointed on ad-hoc basis and the post occupied by him was later on advertised. After test and interview, respondent No. 5, herein, was appointed on the recommendations of the respective selection committee while relieving the appellant, herein. The appellant, herein, neither challenged his ad-hoc appointment order nor took part in the test and interview or joined the service under protest. As the appellant, herein, was not a permanent employee of Education Department, therefore, has no right to be restored to service and his appeal has rightly been dismissed by the learned Service Tribunal.”

5. After dismissal of the petitioner's appeal from this Court, he had no right to re-challenge the said order before the High Court. Once the matter has become final the same cannot be re-opened before any forum as the same had attained finality and become a past and closed transaction. The procedures and hearings necessary for the

resolution of this matter have been duly conducted, leading to a definitive judgment. Pursuant to the principle that governs finality, this court affirms that the matter at hand cannot be reopened or reconsidered before any forum, irrespective of jurisdiction or authority. Such a pronouncement is crucial to preserving the stability, certainty, and integrity of legal outcomes, ensuring that once a matter has attained finality, it cannot be subjected to perpetual reopening or re-litigation. It is a very disturbing sight that after the judgment by this Court, the learned counsel who was well aware of the facts of the case but preferred concealing the same from the Court, invoked the constitutional jurisdiction of the High Court just to abuse the law, dignity of the Court and professional ethics. Such conduct of a senior member of the Bar is very depreciable which needs immediate remedial measures by the Bar Council and Bar Association to see that the process of law is not abused and polluted by its Members, because providing fair and transparent legal justice system is also the responsibility of Bar Councils and Bar Associations. It is also in the interest of dignity and high tradition of the Bar to eradicate such like practice, and no one should be permitted to play such tactics which result into miscarriage of justice and disgrace to this noble profession. Showing restraint, we do not intend to impose cost, however, we expect from the learned counsel for the petitioner to be careful in the future. The learned High Court's decision is quite in accordance with law calling for no interference by this Court.

In view of the above, this petition for leave to appeal stands dismissed.

**JUDGE**

**JUDGE**

Mirpur,  
22.05.2023

M. Zaffar vs. DDE&SE and other

**ORDER:**

The judgment has been signed. It shall be announced by the Assistant Registrar, Rawalakot, after notifying the learned counsel for the parties.

**JUDGE**

**JUDGE**

Mirpur,  
22.05.2023