

IN THE HIGH COURT OF SINDH AT KARACHI

Before:

Mr. Justice Nadeem Akhtar

Mr. Justice Adnan-ul-Karim Memon

Constitutional Petition No. D – 5784 of 2014

(Abdul Salam Khatri vs. DG ML&C and another)

Date of hearing
& decision : 10.01.2020.

None present for the petitioner.

ORDER

ADNAN-UL-KARIM MEMON, J. : Petitioner questioned his transfer and posting order dated 12.11.2014 issued by the respondent-Cantonment Board by invoking Constitutional Jurisdiction of this Court asserting that the post against which the petitioner is appointed is/was a non-transferable under sub-Rule (i) of Rule 5 of the Pakistan Cantonment Servants Rules, 1954. This Court, under the similar circumstances after hearing the parties, through the consolidated Order dated 1.6.2017 passed in C.Ps. Nos. D-5661/14, 4531/14, 4532/14, 5468/14, 4790/13 and 7751/15) rejected the petitioners' stand by holding that the posts held by them were transferable. The aforesaid common order was impugned before the Hon'ble Supreme Court in the case of *Tariq Iqbal and others v. DG Military and Cantonments Department Ministry of Defence and others* (2018 SCMR 335), whereby their plea was discarded in the following terms:-

“Resultantly on 7th April, 2015, the letter dated 4th November, 2011 was withdrawn and it was declared that the policy in respect of transferable categories of Cantonment servants, declared vide letter dated 3rd November, 1999, shall hold the field.

14. For what has been discussed above, no case for leave is made out. These petitions, as a consequence, are dismissed. Leave is declined.”

In the present proceedings issue is same as discussed supra, however we have noticed that after filing of the instant petition on 14.11.2014, petitioner and his counsel failed and

neglected to put appearance to pursue the matter. Same was the position on 07.08.2017 and even today nobody has bothered to either intimate this court or to pursue the matter. Since the issue of transfer and posting from one Cantonment Board to another Cantonment Board has already been settled by the Hon'ble Supreme Court in the case of *Tariq Iqbal and others supra*, this petition is not maintainable.

This being the legal position of the case, this petition is hereby dismissed along with pending application(s) with no order as to costs.

JUDGE

JUDGE

Nadir/-