

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
C.P. No.D-1467 of 2012

Date	Order with signature of Judge
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For direction.

1. For hearing of CMA No.721/2018.

17.04.2018

Mr. Mushtaq Hussain Qazi, Advocate for the petitioner.
Mr. Salman Talibuddin Additional Attorney General along with Asad Rafi Chandna DG (P&S) & Chairman PQA Wing, Owais Nouman Kundi Senior Joint Secretary Cabinet Secretariat Aviation Division Islamabad, Abdul Malik Ghauri Federal Secretary / Member Incharge Wafaqi Mohtasib (Ombudsman)'s, Secretary, R.O, Karachi, Shamshad Khan Khalil Director Litigation, Ministry of Maritime Affairs, Islamabad and Shahnawaz Mangrio, Dy Manager Legal P.Q.A.

The instant petition was filed on the ground that the seniority of the petitioner has been disturbed and he has been discriminated by putting his juniors' name in the seniority list above his name and to allow promotion to him. The matter proceeded before this Court and thereafter vide order dated 17.09.2013 the petition was disposed of by directing the Selection Board that in its next meeting consider the case of the petitioner and in case meeting is not scheduled in near future then the same shall be convened within a period of three months. Since the meeting was not convened within the stipulated period thereafter the instant contempt application was moved, upon which comments were called from the alleged contemnors.

Mr. Salman Talibuddin, Additional Attorney General for Pakistan has affected his appearance on behalf of the alleged contemnors and at the very outset stated on behalf of all the contemnors that they throw themselves at the mercy of this Court. He admitted that in the instant case delay has been occasioned in complying with the order passed by this Court

due to the circumstances going beyond the control of the alleged contemnors hence, according to him, there is no non-compliance or violation of the order passed by this Court. He also stated that the alleged contemnors could not even dare to think about violating the orders passed by this Court and all the contemnors have tendered advanced unconditional apology in this behalf. He explained that the Hon'ble Supreme Court of Pakistan in 2013 in a *Suo Moto* Proceedings directed the PQA to furnish before it a list of all the employees who were appointed in PQA during the last five years in order to check that whether the appointments made by the PQA in the said period were in accordance with law or not for all the grades from BPS-01 to BPS-20. Mr. Salman Talibuddin stated that since the exercise was quite comprehensive, cumbersome and lengthy, the alleged contemnors remained busy in complying with the order passed by the Hon'ble Supreme Court and could not convene the meeting in a timely manner and the delay, which was neither deliberate nor contumacious, took place. He further explained that Port Qasim Employees Service Regulations 2011 stood revised in 2013 through which massive amendments were made in the law which also were to cater and kept in view in the meeting. He stated that due to above facts delay took place in convening the meeting. He further stated that the meeting was convened in July 2016 and the petitioner was given due promotion from February 2016 and in his view since the order has been complied with, though late, due to the factors explained above, therefore the instant contempt application may accordingly be disposed of.

Mr. Mushtaq Hussain Qazi Advocate, on the other hand, has stated that since an admission has been made by the Additional Attorney General for the delay caused in complying with the order passed by this Court,

hence, appropriate contempt of Court proceedings may be initiated against the alleged contemnors.

We have heard the learned counsel for the petitioner and Mr. Salman Talibuddin at length and are of the view that in the instant matter the petitioner has been promoted from BPS-19 to BPS-20, though late, but reasons for the said delay have been explained in detail. The record clearly reveals that vide office order dated 07.09.2016 the petitioner was given promotion w.e.f. 17.02.2016. In the statement furnished by the respondents reasons for the said delay in convening the meeting have duly been explained upon perusal of which it could be inferred that the delay caused in conducting the said meeting was neither deliberate nor contumacious to hauled up the contemnors in contempt of Court proceedings, which in our view is a matter exclusively between the contemnors and the Court.

We, therefore, in the light of what has been explained above have come to the conclusion that though there has been a delay in convening the meeting but reasons have been given for such delay and in view of the facts and circumstances we do not find the occasion of initiating contempt of Court proceedings against the alleged contemnors. The alleged contemnors however are cautioned to remain careful in future who have not only tendered unconditional apology but also have thrown themselves at the mercy of the Court. With these observations, the instant contempt application stands disposed of.

JUDGE

JUDGE