

HIGH COURT OF SINDH, KARACHI

C.P No.D-3973 of 2011

Before:-

Mr. Justice Mohammad Ali Mazhar
Mr. Justice Adnan-ul-Karim Memon

Prof.Dr.Wahid Bux Soomro : Mr. Ahmed Ali Ghumro, advocate
Petitioner, through

Respondent Nos. 1 & 2 through : Mr. Masood Ahmed Noorani,
advocate

Respondent Nos. 3 to 5 through : Mr. Kamaluddin, advocate

Mr. Abdul Jaleel Zubedi : A.A.G

Date of hearing : 16-12-2016

Date of Order : 16-12-2016

ORDER

MOHAMMAD ALI MAZHAR---J., Though the Petitioner filed this petition for quo warranto against the respondent No.3 but he also requested to the Court for continuing his four years tenure of service. Simultaneously he also challenged the inquiry committee constituted by the respondent No.3 without affording him any right of defence for determining the liability of Rs.17,63,231/=. During pendency of this petition, the petitioner has expired and the question raised by this Court on earlier date as to why the legal heirs of petitioner should be impleaded and whether the right to sue survives or not? The learned counsel for the Petitioner argued that though other relieves are abated but so far as the deduction of Rs.17,63,231/= is concerned, the legal heirs may be impleaded to secure this amount which was allegedly recovered from the full and final settlement dues of the Petitioner deducted in his lifetime and he questioned this deduction also through this Petition. Learned counsel for the petitioner pointed out page 45 of the memo of petition which is a letter dated 05-07-2011 issued by

the Registrar Quaid-e-Awam University to the Petitioner. Through this letter the Petitioner was informed in his lifetime that a Committee was constituted under the directives of the Government of Sindh to conduct an inquiry with regard to the irregularities committed during Petitioner's incumbency as Vice Chancellor. Some allegations have been mentioned in the letter under Clause 1 to 4, the liability has been determined in the different Heads such as recovery of House Rent Allowance and Maintenance Charges of the accommodation. The learned counsel argued that this inquiry was conducted without providing any opportunity of hearing to the Petitioner and we agreed to this contention as the letter reflects that no opportunity was provided to the Petitioner and it was in fact internal enquiry process. Secondly the learned counsel for the petitioner argued that petitioner was never provided any Vice Chancellor house. He further argued that during the occupancy of government accommodation, fixed charges were being deducted from his salary. On the contrary the learned counsel for the respondents argued that the petitioner was allowed accommodation in the guesthouse but he availed the entire guesthouse so the rent was rightly calculated by the department.

2. The Petitioner has expired and it is also fact that numerous disputed questions of facts are involved. No allegation of fraud or any corruption is raised against the petitioner. The learned A.A.G has given a proposal that Vice Chancellor may provide right of audience to any major legal heir of the Petitioner and / or widow and their counsel where they may place all the relevant facts before the Vice Chancellor and after verifying the record, If any, amount is found due, the Vice Chancellor shall pass necessary orders for the payment to the legal heirs in accordance with the Law. The learned counsel for the petitioner, Mr.Kamaluddin, learned counsel for the respondent Nos.3 to 5 and Mr. Masood Ahmed

Noornai, learned counsel for the respondent Nos.1 and 2 agreed to this proposal and further suggest that first date and time may also be fixed by this Court to appear before the Vice Chancellor which proposal seems to be quite reasonable. The legal heirs of the deceased Petitioner may appear before the Vice Chancellor with their counsel on 26.12.2016 at 12:00 A.M. We expect that the proper right of audience will be afforded by the learned Vice Chancellor to the legal heirs of the Petitioner to resolve the issue and if any amount is found due the same shall be paid within reasonable time.

3. The petition is disposed of accordingly. The copy of this order may be communicated to the Respondent Nos. 3 and 4.

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