

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI  
C.P No.D-1819 of 2009

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Date Order with signature of Judge

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**For Direction.**

1. For hearing of CMA No. 41567/2012 (u/s 151 CPC).

04.10.2017

Mr. Ali Asadullah Bullo advocate for the Petitioner.  
Syed Samiullah Shah advocate for the Respondents No. 2 to 8.

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The instant petition was disposed of by this Court vide order dated 15.03.2010 with the following observations:-

“The petitioner is a retired employee and his retirement dues were in dispute. Today an amount of Rs. 6,25,900/- has been paid in Court to the petitioner towards his retirement dues. The counsel for the petitioner states that this is not the amount of full and final dues of the petitioner and some more amount is to be paid by the respondent Railway department to the petitioner. The counsel for the respondents states that the petitioner is occupying the railway quarter and that he should be directed to vacate the same. Petitioner’s counsel seeks time of two months to vacate the quarter. The petitioner is directed to handover the vacant possession of the quarter to the respondent Railway positively within two months’ time and no further extension in this respect will be allowed to him. The petitioner will put up his claim for the balance retirement dues to the respondent Railway Department who will decide the same within two weeks of the receipt of the claim of the Petitioner.

On 05.11.2012 petitioner filed application under section 151 CPC (CMA No. 41567/2012) for direction to the Respondents for payment of move-over allowance as part of his retirement dues. Learned counsel for the Respondent Nos. 2 to 8 filed reply to CMA No. 41567/12.

Mr. Ali Asadullah Bullo learned counsel for the petitioner states at the bar that the order dated 15.03.2010 passed by this Court has not been complied with in its letter and spirit by the respondent Railway. He next argued that the respondents have not decided the case of the petitioner within specified time which amounts violation of the order passed by this Court. He next added that the petitioner submitted application for move-over in BPS-17 and his case was recommended but no benefit of the same was given to the petitioner. He further added that the adverse remarks, if any, passed in ACRs of the petitioner were never communicated to him. He prays for directions to the respondents to award benefit of move-over to the petitioner from the year 1995. Untenable

Syed Samiullah Shah learned counsel for Respondent No. 2 to 8 submits that in compliance of the order passed by this court dated 09.11.2016 the claim of the petitioner was found to be not tenable as per Railway Policy. He contended that petitioner is not entitled for grant of move-over with effect from 01.12.1994 as the ACRs of the Petitioner were below average as per policy dated 20.08.1981. He further contended that the respondent-railway has complied with the orders passed by this Court in its letter and spirit and nothing is left to be decided on the part of respondent-railway.

We have heard the learned counsel for the respective parties and perused the material available on record.

This Court disposed of the instant petition vide order dated 15.03.2010, with a direction to the Respondent Railway department to decide the claim for the balance retirement dues within two weeks. We have noted that in the order dated 02.04.2015 the primary claim of the petitioner was of move-over benefits. As per statement submitted by the learned counsel for Respondent Railway that

petitioner is not entitled for move-over with w.e.f. 01.12.1994 on the premise that his ACRs for the last four years were below average. We have gone through the Railway policy dated 20.08.1981 that a civil servant is eligible to move over to the next higher National Scale subject to the condition inter alia that there is no adverse entry in his annual confidential report for the last four years in succession. However, record reflects that there are adverse remarks against the petitioner in his ACRs, therefore, we are of the view that the petitioner cannot claim the benefit of mover-over as a matter of right, hence, his claim has rightly been rejected by the respondent-railway, which is a policy decision and cannot be interfered.

This being the position, we are satisfied that no case for indulgence of this Court is made out. The listed application is, therefore, dismissed.

JUDGE

JUDGE

S.Soomro /PA