

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI  
C.P No.D-6788 of 2015

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Date Order with signature of Judge

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**For Direction .**

For orders of CMA No. 9744/17 (Contempt).  
(Written State R/A and C?A filed as flagged))

31.05.2017

Mr. Malik Naeem Iqbal Advocate for petitioner.1388/2017.

Mr. Naveed Ahmed Khan Advocate for Intervener.

Mr. Iqbal Khurram, Advocate for KMC.

Mr. Abdul Jalil Zubedi. AAG along with Muhammad Ramzan Awan,  
Secretary Local Government/alleged contemnors No.3.

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**ORDER**

The instant petition was disposed of by this Court vide order dated 11.03.2016 with the following observations:-

“Keeping in view the available record, we have no doubt that the post of Senior Director is in BPS-20. Admittedly that petitioner is in BPS-19 and for this reason alone the Notification was issued for the removal of the petitioner from the said post in view of the Hon’ble Supreme Court’s directives, therefore, this petition is dismissed in limine. However, petitioner who has raised a question that except her nobody is having experience to hold this post, therefore, she may approach to the Administrator, K.M.C. and file proper representation within three (03) days and if any such representation is filed, the same shall be decided within ten (10) days in accordance with law. The Administrator shall also provide ample opportunity of hearing to the petitioner. ”

2. On 29.03.2017, the applicant/intervener filed listed application (CMA 9744/2017) for initiation of contempt proceedings against the alleged contemnors on account of their willful, intentional and deliberate act of disobeying the above mentioned order.

3. Mr. Naveed Ahmed Khan, learned counsel for the Applicant/intervener has argued that the applicant was posted as Senior Director Medical and Health Services, KMC (BS-20); that the alleged contemnors No.2 and 3 have violated the order dated 11.3.2016 passed by this court and cancelled the posting order of alleged contemnors No.1, which has frustrated the directives of this Court to post a grade 20 Officer; that applicant has been posted

Senior Director Medical and Health Services BS-20 as per observation of this Court, whereby on the said post a Grade 20 Officer was to be posted but the alleged contemnors have circumvented the basic spirit of the order dated 11.03.2016 and 01.04.2016 by posting the petitioner on the said post who is working in BS-19.

4. Mr. Malik Naeem Iqbal, learned counsel for the petitioner has argued that the alleged contemnors have complied with the directions contained in the above order in letter and spirit; that the alleged contemnor No. 3 flouted summary for Chief Secretary to the effect that KMC does not follow the rules of service, with further noting that the post of Senior Director is of BS-19 and the up-gradation of Dr. Muhammad Ali Abbasi is cancelled, therefore, the alleged contemnor No.2 directed that the cancellation of posting order of Dr. Salma Kousar / Petitioner be withdrawn; that the transfer and posting is prerogative of the Government and no employee has a vested right to hold a particular post; that petitioner is senior most officer of BS-19 and the posting order of Dr. Muhammad Ali Abbasi/Intervener has been cancelled so also his up-gradation; that he is not senior most officer and does not belong to the cadre post of Director Medical Services, Medical and Health Services, rather the petitioner is Senior Officer of BS-19 and eligible to be posted there. He lastly contended that no case for contempt is made out and prayed for dismissal of the listed application.

5. Mr. Iqbal Khurram learned counsel for KMC has argued that the applicant Dr. Muhammad Ali Abbasi is a grade 20 officer and the competent authority has posted him as Senior Director Medical and Health Services KMC in compliance of the orders passed by this Court; that the post of applicant was up graded through council resolution No.4 dated 18.2.2012 and still the said post has not been downgraded by the competent authority, therefore, the petitioner is not entitled to claim the said post, as it would be in violation of the orders passed by this Court.

6. Mr. Abdul Jalil Zubedi, learned A.A.G. has argued that the Karachi Metropolitan Corporation (KMC) through Council Resolution

No.4 dated 18.02.2012 approved up-gradation of Dr. Muhammad Ali Abbasi, Medical Superintendent (BPS-19) Leprosy Hospital, Manghopir KMC in (BPS-20) w.e.f. 10.03.1998; that Dr. Muhammad Ali Abbasi/Applicant is of Grade 19 officer, because his up-gradation in BS-20 was cancelled being illegal and in violation of rules, which is in compliance of the directive of Hon'ble Supreme Court as he was never promoted in BS-20 through DPC. He produced list provided by KMC, which reveals that 09 Officers of BS-20 and 101 Officers of BS-19 are working in KMC, out of 09 Officers of BS-20 two belongs to SCUG and one is cadre officer (Administrator). He lastly contended that the cancellation of the posting order of Dr. Salma Kausar has been withdrawn by the competent authority vide order dated 14.03.2017, thus no prejudice has been caused to anybody else, therefore, no case of contempt is made out.

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

8. This Court disposed of the instant petition vide order dated 11.03.2016 whereby dismissing the petition of the petitioner (Dr. Kausar Sultana) in limine with direction to the petitioner to approach administrator KMC and file proper representation with further directions that the same be decided within ten days by the competent authority. This court vide order dated 1.4.2016 directed the respondent to give the charge of the post of Senior Director Medical and Health Services KMC to any officer of BS-20 as stop-gap arrangement. On 15.4.2016 learned counsel for KMC filed statement to the effect that the applicant namely Dr. Muhammad Ali Abbasi is an officer of BS-20 and as a regular induction he has been posted as Senior Director Medical and Health Services KMC, therefore, this Court disposed of Misc No.7902/2016 (contempt) and Misc No.7901/2016 (stay) application of the petitioner. The intervener / applicant in order to show some irregularities allegedly committed by the alleged contemnors has filed the listed application. In response to the order dated 09.05.2017, the alleged contemnor No.3/Secretary Local Government has appeared and submitted compliance report and stated that the up-gradation of the applicant Dr. Muhammad Ali Abbasi has been cancelled as per order dated 15.4.2016 passed by the Hon'ble Supreme Court. Be that as it may, the controversy that

whether the up-gradation of intervener has been withdrawn or not and such notification has been issued or not is not before us to dilate upon and decide it. The listed application has been filed by the applicant / intervener for initiation of contempt proceedings against the alleged contemnors on the ground that the petitioner who is Officer of Grade 19 is going to be posted on the post of Grade-20, which fact, however, has not been established through any substantial material placed on record.

9. This being the position, we are satisfied that no case for initiating contempt proceedings is made out. The listed application is, therefore, dismissed. However, if the applicant is not satisfied with the decision of the respondents, he may follow other appropriate remedy in accordance with law.

JUDGE

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