

**IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD**

C.P. No.D-810 of 2012

Present

Mr. Justice Muhammad Iqbal Kalhoro

Mr. Justice Adnan-ul-Karim Memon.

Nek Muhammad Jakhrani & another ----- Petitioners

Vs.

Chairman WAPDA & others ----- Respondents

Date of Hearing: 11.03.2019

Mr. Meer Ahmed Mangrio, advocate for petitioner.

Mr. Muhammad Arshad S. Pathan, advocate for respondents.

Mr. Allah Bachayo Soomro, Additional Advocate General, Sindh.

Mr. Faiz Muhammad, Deputy Manager (HR), LPGCL, Lakhra.

ORDER

ADNAN-UL-KARIM MEMON, J. - The instant petition was disposed of vide order dated 15.11.2012 with following observations:-

“Learned counsel for petitioners says that there are certain vacancies available with Respondents No.1 & 2 which are to be filled in by promotion. However, learned counsel for respondents disputes this position.

Learned Counsel for Petitioners says that this petition be disposed of by directing the Respondents No.1 & 2 if there are vacancies available with the Respondents No.1 & 2 which are to be filled in by promotion same may be filled in as per quota mentioned in the prayer clause of the petition and Petitioners may also be considered for the same.

In the circumstances, Respondents No.1 & 2 are directed that if there are vacancies available with them are to be filled in by promotion same may be filled in as per quota mentioned in the prayer clause of the petition and Petitioners may also be considered for the same. Such exercise be carried out within a period of two months’ time from the date of receipt of this order.

Petition stands disposed of in above terms.”

2. On 22.05.2018, petitioner No.1 [Nek Muhammad] filed application (MA No.8327 of 2018) under Section 3 & 4 of the Contempt of Court Ordinance 2003 for initiating contempt proceedings against the alleged contemnors.

3. Mr. Meer Ahmed Mangrio, learned counsel for the petitioner has argued that this Court vide order dated 15.11.2012 directed the respondents to consider the petitioner for promotion but they have issued one erroneous seniority list dated 22.12.2014 and passed order dated 04.03.2015 against the rules and regulations, which are not only in violation of directions of this Court but also deprived the petitioner from promotion in next rank on merits. He lastly prayed for strict action against the contemnors.

4. Mr. Muhammad Arshad S. Pathan learned counsel representing the alleged contemnors has argued that the Authority has prescribed 12-1/2% promotion quota for UTS Diploma Holders on the basis of seniority-cum-fitness having passed the Departmental Promotion Examination vide Managing Director PEPCO letter No.1130/MDP/CEAP/CM/G-35 dated 21.01.2006; that three seniority lists of Diploma Holders, Non-Diploma Holders and B.Tech. (Hons) are required to be prepared separately as per above order. In order to have uniform policy, the Authority decided to maintain the seniority of UTS for promotion to Junior Engineer from the date of their first entry in cadre/ UTS vide WAPDA S&GA Office Memorandum dated 20.03.2006; that in the light of said instruction, seniority lists of Diploma Holders, was prepared and circulated for wide publication to seek objections, if any, but neither any objection on the seniority from the petitioner nor any other individual had come forward and finally it was confirmed and issued on 22.12.2014 accordingly; that as per seniority lists of UTS Diploma Holder as on 22.12.2014, the senior most employees appearing at Seniority No.1 & 2 i.e. M/s Muhammad Umer & Gulsher Khokhar Foremans were promoted to the rank of Junior Engineer vide

order dated 04.03.2015 per quota and availability of vacancy; that as per latest seniority list of UTS having DAE degree as on 10.12.2018 petitioner, Foreman is at seniority No.1 and his case for promotion will be considered in forthcoming board meeting scheduled to be held in the month of April, 2019 under the rules.

5. We have heard learned Counsel for the parties on the listed application and perused material available on the record.

6. Upon perusal of the statement submitted by the alleged contemnors that as per latest seniority list of UTS having DAE degree as on 10.12.2018 petitioner is senior most and his case for promotion will be considered in forthcoming Board meeting, scheduled to be held in the month of April, 2019. We are of the view that the Respondent has committed to promote the petitioner in next rank in accordance with rules and submitted compliance report as mentioned supra. We have also gone through the Contempt Application, the reply of the alleged Contemnor to the effect that they had complied with the aforesaid order of this Court in its letter and spirit.

7. In view of the facts and circumstances of the case and for the reasons mentioned as above, we are satisfied with the explanation furnished by the alleged contemnors that substantial compliance of the order dated 15.11.2012 passed by this Court has been made in its letter and spirit, therefore, at this juncture, no case for initiating contempt proceedings is made out against the alleged contemnors. Thus, we are not persuaded to continue with any further on the listed application bearing (MA No.8327 of 2018), having no merits, is accordingly dismissed.

JUDGE

JUDGE

