

**IN THE HIGH COURT OF SINDH AT KARACHI**

Constitutional Petition No.-D-4399 of 2013.

**Present.**

Mr. Justice Irfan Saadat Khan  
Mr. Justice Adnan-ul-Karim Memon

Umair Hussain - - - - Petitioner

Versus.

Inspector General of Police & others - - - - Respondents.

Date of Hearing: 05.10.2018

Mr. Aamir Jamil, Advocate for the Petitioner.  
Mr. Shehryar Mehar, AAG.

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**ORDER**

The present application has been filed by the Petitioner seeking action against the alleged contemnors for defiance of the order passed by this Court dated 22.05.2015. It is submitted by the Petitioner that this Court vide order dated 22.05.2015 disposed of the captioned petition with directions to the Respondents to consider the application of the Petitioner for appointment within a period of four months. Petitioner submitted that the Respondents had not complied with the directives passed by this Court in the aforesaid order, thus are liable to be hauled-up in contempt of court proceedings under Article 204 of the Constitution of the Islamic Republic of Pakistan 1973.

Mr. Aamir Jamil, learned Counsel for the petitioner has argued that that despite clear directions in the above said Order the contemnors have not complied with the same. Per learned counsel contemnors submitted report on 06.08.2016, which is ambiguous and misleading. He lastly contended that contemnors were duty bound to comply with the directives issued by this Court vide order

dated 22.05.2015, but they have miserably failed to do so; therefore they are liable to be proceeded for their illegal action.

Mr. Shehryar Mehar, learned Assistant Advocate General Sindh has contended that the case of Petitioner falls under serving/retired employees quota relating to the Standing Order No.260/2011, which has been suspended along with all other standing orders by the directives of the Honourable Apex Court in the case of Gul Hassan Jatoi and others Vs. Faqeer Muhammad Jatoi & others (2016 SCMR 1254). He next contended that only those claims of heirs for recruitment against son quota are entertained, whose father/mother had passed away, while in service in light of the Rule-11-A of the Sindh Civil Servants (Appointment, Promotion, Transfer) Rule-1974). He next contended that petitioner is not entitled to be appointment as Junior Clerk under Standing Order No.260/2011 as the same has not been approved by the Provincial Government and the Honourable Supreme Court has nullified all the Standing Orders issued by the Inspector General of Police, which are not approved by the Provincial Government. He lastly prayed for dismissal of listed application.

We have heard the learned counsel for the parties and perused the material available on record and case law cited at the bar.

The primordial question in the subject application is whether it is maintainable or not in view of the circumstances now obtaining in the instant matter.

Record reveals that office of Inspector General of Police Sind Karachi vide order dated 06.01.2012 issued Standing Order No.260/2011 notifying the recruitment in Sindh Police against the quota for children of serving police employees / retired police

personnel. It has been agitated by the learned Assistant Advocate General Sindh, that the Standing Orders issued by the Inspector General of Police was without approval of the Provincial Government, and the same have no any legal status. In rebuttal of the said contention of Learned Assistant A.G Sindh, no argument was advanced by the learned counsel for the Petitioner.

We have noticed that recently the Honourable Supreme Court in the case of Gul Hassan Jatoi & others (*supra*) and in the case of Mohammad Nadeem Arif & others vs. IGP Punjab, Lahore & others (2011 SCMR 408) has declared the Standing Orders issued by the IGP without approval of the Government to be of no legal sanctity, therefore the Petitioner cannot now take resort of the Standing Order No.260/2011.

In view of the above, it is crystal clear that the respondents cannot circumvent the law to make recruitment against the son quota by issuing Standing Order for the recruitment in Sindh Police against, Son Quota without approval of the Provincial Government as specifically observed by the Hon'ble Supreme Court.

Record reflects that the Respondents have disclosed in the comments / reply to the contempt application that only those claims of heirs of recruitment against son quota shall be entertained whose father/mother passed away while in service under the definition of Rule 11-A of Sindh Civil Servants ( Appointment, Promotion, Transfer) Rules 1974. Record does not reflect that Petitioner's case falls within the aforesaid Rule 11-A as discussed *supra*.

In view of the above facts and circumstances of the case, the explanation offered by the respondents vide statement dated 06.08.2016, *prima facie*, is tenable under the law as the Petitioner

was considered in compliance of order passed by this Court dated 22.05.2015. At this juncture, we are satisfied with the explanation offered by the alleged contemnors that substantial compliance of the order dated 22.05.2015 passed by this Court has been made in its letter and spirit, therefore, no case for initiating contempt proceedings is made out against the alleged contemnors. It is well settled principle of law that Contempt Proceedings are always between the Court and the alleged contemnors. Thus, we are not inclined to proceed against the contemnors as prayed in the listed application bearing CMA No. 19321/2018. The application therefore, having no merits, is accordingly dismissed.

JUDGE

JUDGE

*Shaft Muhammad P.A*