

IN THE HIGH COURT OF SINDH AT KARACHI

Before:

Mr. Justice Nadeem Akhtar

Mr. Justice Adnan-ul-Karim Memon

C.P No. D-4622 of 2016

Imtiaz Hussain Mohsin V/S Federation of Pakistan and 02 others.

For Direction:-

1. For order on Nazir Report dated 13.12.2019 & 30.12.2019 :
2. For hearing of CMA No. 26948/2019 (Contempt) :
3. For hearing of CMA No.6858/2019 (Contempt) :

Date of hearing

& decision: **28.02.2020**

Mr. Faizan Hussain Memon, advocate for the petitioner.

Mr. Mohammad Iqbal Chaudhry, advocate for the respondent No.3 along with Asad Mahmood Usmani, GM (Finance & Internal Audit), Korangi Fisheries Harbour Authority.

Ms. Durdana Tanweer, Assistant Attorney General for Pakistan.

ORDER

This petition was disposed of vide order dated 29.10.2018 with direction to the respondents to award benefit of Office Memorandum dated 11.02.1985 to the petitioner, without discrimination, within a period of two months. Respondents assailed the aforesaid order before the Hon'ble Supreme Court of Pakistan in Civil Petition No.1456-K of 2018, which was dismissed vide order dated 18.7.2019. Their review application was also dismissed vide order dated 24.12.2019. Now the respondents have complied with the order by depositing an amount of Rs.1, 208,000.00 with the Nazir of this Court and the same has been disbursed in favour of the petitioner, which factum is disclosed in the order dated 10.01.2020 passed by this Court. However, the petitioner is not satisfied with the same calculation and claims that there is still some amount to be received by him and prays for initiation of contempt of Court proceedings against the alleged contemnors on account of their willful, intentional and deliberate act of disobeying the above mentioned order passed by this Court.

We have heard learned counsel for the parties on the listed applications and perused the material available on the record. We have also scrutinized the compliance report submitted on behalf of the alleged contemnors, which explicitly shows that substantial compliance of the order dated 29.10.2018 has been made by releasing an amount of Rs.1, 208,000.00, in favour of the petitioner, being the benefit of Office Memorandum dated 11.02.1985. Prime facie, the explanation offered by the respondents is tenable under the law.

Mr. Faizan Hussain Memon, learned counsel for the petitioner, insisted that respondents owe more amount on account of service rendered by the petitioner in the office of Controller of Navel Accounts (MES Navy), his gratuity for more than three (03) years, delay in disbursement of the aforesaid amount for about three (03) years, therefore, action may be taken against them.

In view of the above averments, we cannot enlarge the scope of the main disposal order dated 29.10.2018 and cannot allow the parties to reopen the case or to reargue a disposed of matter on merits in contempt proceedings. On the aforesaid proposition, the decision rendered by the Hon'ble Supreme Court of Pakistan vide order dated 16.01.2020 passed in Criminal Appeal No.622 of 2019 is clear in its terms. It is held by the Hon'ble Supreme Court that *"the Courts to be careful in exercising contempt jurisdiction in matters falling within the domain of competent authorities and/or Service Tribunals"*. We do not see any malice on the part of alleged contemnors warranting interference of this Court to take action against them under Article 204 of the Constitution.

In view of the facts and circumstances of the case and for the reasons alluded above, we are satisfied with the explanation offered by the alleged contemnors that compliance of the order dated 29.10.2018 passed by this Court has been made in its letter and spirit. Therefore, at this juncture, no case for initiating contempt proceedings against the alleged contemnors is made out. Resultantly, listed CMAs bearing No. 26948 of 2019 and No.6858 of 2019 are dismissed with no order as to costs.

JUDGE

JUDGE