

Order Sheet

IN THE HIGH COURT OF SINDH KARACHI

**Const. Petitions No. D-1388, D-4491 and D-5988 of 2017,
C. Ps. No. D-3551, D-5603 and D-3203 of 2018,
and C. Ps. No. D-788 and D-1132 of 2019**

Date	Order with Signature of Judge
------	-------------------------------

Direction :

1. For orders on CMA No.1200/2020 (151) :
2. For orders on CMA No.2133/2020 (151) :
3. For orders on CMA No.2167/2020 (151) :
4. For orders on CMA No.35665/2019 (151) :
5. For orders on CMA No.34807/2019 (151) :
6. For orders as to non-prosecution of CMA No.24354/2019 (Review) :
7. For hearing on Nazir Report dated 27.05.2019 :
8. For hearing on CMA No.3172/2019 :
9. For hearing on CMA No.38745/2018 :

05.03.2020 :

M/S Muhammad Haseeb Jamali, Muhammad Arif Nisar and Nadeem-ul-Haq, advocates for the petitioners.

Agha Zafar Ahmed, advocate for PSM.

Mr. Muhammad Nishat Warsi, DAG, a/w Sher Alam Mahsud, Additional Secretary, MOIP with additional charge of CEO Pakistan Steel (PSM), Afzal Latif, Secretary, Industries & Production Division, Abdul Ghufuran, Additional Secretary, Cabinet Division, and Dr. Rashid Manzoor, Additional Secretary, Finance, Government of Pakistan.

Malik Ajaz Hussain, Law Officer, PSM.

.....

In response to the show cause notice issued in compliance of order dated 04.02.2020, Secretary Industries and Production, Additional Secretary Cabinet Division, Additional Secretary Finance, Additional Secretary Industries and Production with additional charge of Chief Executive Officer Pakistan Steel Mills (PSM), are present. However, Secretaries Finance and Cabinet Division are not present although they were directed to appear today in person. Replies to the show cause notice have been submitted by the Secretary Industries and Production and the Chief Executive Officer of PSM, and a report has been submitted by Additional Secretary Finance on behalf of the Secretary Finance.

Learned counsel for the petitioners and PSM, learned DAG and all the above named officers have been heard at considerable length. In the above mentioned report filed today on behalf of the Secretary Finance, it is stated that there is no provision in the budget for payment to PSM for post-retirement dues of retired employees of PSM ; payments for retired employees of PSM cannot be arranged during the current financial year 2019-2020 ; and, Finance Division

can propose to the Parliament the budgetary allocations for this purpose in the budget of the next financial year i.e. 2020-2021. A report, with the same stance, was submitted by the Finance Division before us on 04.02.2020, whereafter the following order was passed by us :

“.....

It has been contended by learned DAG that the Federal Government is sincerely trying to allocate special funds for settlement of the dues of the petitioners and the entire process will take some time due to involvement of several departments. From the reports submitted on the last date of hearing and the submissions made before us today as well as on the previous dates of hearing, it is clear that Federal Government is not disputing / denying its liability and has in fact agreed to settle the dues of the petitioners. The only question at this stage before us is the mode of execution / implementation of the orders already passed by this Court for settlement of the outstanding dues of the petitioners, which orders have attained finality. We are conscious of the order passed by Hon'ble Supreme Court on 18.11.2019 in C.P. No.3670/2019, wherein it was observed that assets and properties of Pakistan Steel Mills will not be sold for settling the dues of the petitioners. The procedure adopted by Federal Government for settling the dues of the petitioners is causing unnecessary delay due to which the petitioners are facing extreme hardship, and despite passage of considerable time, no timeframe or specific date has been disclosed by the Federal Government for settlement of the petitioners' dues. In the above circumstances, the only option appears to be that the relevant account / fund of the Federal Government should be attached to the extent of dues payable to the petitioners. Issue show cause notice to the Secretary Finance, Government of Pakistan, Secretary Ministry of Industries and Production, Government of Pakistan, Secretary Cabinet Division, Government of Pakistan, and also to Chief Executive Officer of Pakistan Steel Mills, to show cause why the relevant account / fund of the Federal Government should not be attached in order to settle the liability of the petitioners.

.....”

The replies and report submitted today are not only unsatisfactory, but are also disappointing as the respondents have still not come up with any concrete proposal and/or timeframe to settle the admitted liability of the petitioners. Therefore, the said replies to show cause notice and the report submitted by Finance Division are hereby rejected. After consulting the Secretary Industries and Production, Additional Secretary Cabinet Division and the Chief Executive Officer PSM, and with their concurrence, Additional Secretary Finance present in Court has submitted the following hand-written statement dated 04.03.2020 which has been fully endorsed by learned DAG :

“Statement

It is submitted Finance Division shall make arrange (!) of funds for the compliance of this Hon'ble Court's Order from expected refund of unutilized amount as last date of refund of unutilized amount is 30-April and Finance Division shall try to arrange such funds by 15 May 2020.

Finance Division shall make arrange (!) as much as possible which may be up to 10% of present claims of petitioners and remaining amount of claim shall be arrange (!) by budgetary allocations in next budget of next financial year.”

We are not at all impressed with the above proposal as post-retirement benefits of the petitioners, which is their unalienable fundamental right guaranteed by the Constitution, cannot be withheld or delayed on the ground of lack of funds or on any other ground whatsoever, especially when the same is their only source of income after retirement. However, before ordering attachment of the account(s) / fund(s) of the Federal Government in terms of order dated 04.02.2020, we deem it appropriate to grant last and final opportunity to the Federal Government and PSM to settle all the dues of the petitioners, subject to the condition that payments shall be made to them by the Federal Government in terms of the above-quoted statement without fail latest by **15.05.2020**. It is clarified that if the commitment / assurance / undertaking mentioned in the above-quoted statement is not honoured by the Federal Government in letter and spirit, the account(s) / fund(s) of the Federal Government shall be attached forthwith for settlement of the dues of the petitioners.

To come up on **18.05.2020 at 11:00 a.m.** when the Secretary Finance, Secretary Ministry of Industries and Production, Secretary Cabinet Division, Government of Pakistan, and the Chief Executive Officer of PSM shall be in attendance. Let notice be issued to them for compliance.

J U D G E

J U D G E