

# IN THE HIGH COURT OF SINDH KARACHI

Before:

Mr. Justice Muhammad Shafi Siddiqui  
Mr. Justice Adnan-ul-Karim Memon

**Constitutional Petition No. D -315 of 2021**

Muhammad Sheraz Kamal

*Versus*

Province of Sindh and 02 others

Date of hearing

& order : 18.01.2021

Mr. Yasin Ali, advocate for the petitioner.

## ORDER

**ADNAN-UL-KARIM MEMON, J.** - Through the captioned petition, the petitioner is seeking enforcement of the alleged offer of appointment as an Administration Head for the Asian Development Bank Finance Project vide letter dated 05.11.2020, issued by respondent No.2-Project Director, Sindh Secondary Education Improvement Project (SSEIP), whereby he was purportedly offered for the aforesaid assignment.

2. Brief facts of the case as per pleadings of the petitioner are that, in pursuance of the advertisement published in `Daily Jang` dated 27.08.2020, inviting applications for appointment for the position of Head of Administration for the Asian Development Bank Finance Project, Education Department, Government of Sindh. The petitioner applied for the aforesaid post. He has submitted that respondents vide letter dated 05.11.2020, accorded permission for recruitment/appointment against the aforesaid position and he was subsequently declared as a successful candidate and had a legitimate expectation of recruitment for the post applied for, however, the respondents only issued an offer order to him, in November 2020 and subsequently failed and neglected to issue his appointment order without any cogent reason; that he is waiting for his appointment order for which he was issued offer order, therefore, he is liable to be appointed on the aforesaid post; that his non-appointment against the post applied for is illegal and unlawful; that the respondents after issuance of offer order cannot withhold the appointment order, which act is illegal.

3. We have asked the learned counsel for the petitioner as to how this petition is maintainable on the premise that the purported letter dated

05.11.2020 was/is a non-committal inquiry letter, the prerequisite for the offer stage. Learned counsel for the petitioner, in reply to the query, submitted that the offer of appointment was made under the law upon fulfillment of all the codal formalities vide email dated 05.11.2020. Per learned counsel, he accepted the offer and fulfilled all the codal formalities and was waiting for confirmation for the subject position, but unfortunately despite his several reminders, the respondents did not bother to respond to the communication, however, finally, they responded to the legal notice dated 23.12.2020 and took U-turn by declining the request of the petitioner for the subject position without reasonable justification.

4. Prima-facie, this petition is not maintainable for the simple reason that no appointment order had been issued, thus no vested right has accrued in favour of the petitioner. It is well-settled law that even a successful candidate does not acquire an indefeasible right to be appointed and that it could be legitimately denied. The notification inviting application for the appointment has been held only to be an invitation to the qualified candidates to apply for the recruitment. On his mere applying or offer/selection, he does not acquire any right to the post.

5. The material placed on record before this Court clearly shows that the alleged offer letter was not an offer, however, it was a non-committal inquiry, the prerequisite before the offer stage. The respondents vide letter dated 31.12.2020 (page 187) clarified the aforesaid position in response to the legal notice dated 23.12.2020 issued by the learned counsel for the petitioner to the respondents.

6. The subject offer was in respect of contractual post and by a Project Director of Sindh Secondary Education Improvement Project. Such contractual commitment which have not been materialized yet could not be enforced through a writ under Article 199 of the Constitution of Islamic Republic of Pakistan.

7. In the light of the above facts and circumstances of the case and for the reasons as alluded hereinabove, this petition merits no consideration which is accordingly dismissed in limine along with the pending application(s) with no order as to costs.

---

J U D G E

---

J U D G E