

ORDER SHEET

IN THE HIGH COURT OF SINDH AT KARACHI

C.P. No.D-3525 of 2016

*Before: Muhammad Shafi Siddiqui,J
Adnan Iqbal Chaudhry,J*

Abdul Latif Narejo & others

Versus

Employees Old Age Benefits Institution & others

Date	Order with signature of Judge
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For hearing of MA No.2036/19

Date of Hearing: 30.10.2019

Petitioner: Through Mr. Abdul Salam Memon Advocate

Respondent No.2: Through Mr. Ali Asadullah Bullo Advocate

ORDER

Muhammad Shafi Siddiqui, J.-This petition was disposed of on 18.12.2017 on the strength of an order dated 04.11.2015 passed by this Court in C.P. No.D-764/2014. The effective part of the order dated 04.11.2015 in the aforesaid petition bearing C.P. No.D-764/2014 is reproduced in the order dated 18.12.2017 passed in this petition. We for the sake of convenience reproduce the same as under:-

“Counsel for the petitioner places on record a letter dated 25.03.2015, issued by the DDG,HR department, EOBI, Head office Karachi. This letter was written by the DDG to the Secretary Board, BOT, EOBI for up-gradation of AD on completion of 15 years’ service as Executive Officer as per decision of the 48th Board of Trust meeting held on 15.12.1998, which was duly approved by the Chairman for further necessary action. This letter is taken on record, when the learned counsel for the respondents No.2 and 3 were confronted to this situation, he conceded that his letter was issued and he requests that at least 45 days’ time may be given to the respondents No.2 and 3 to convene a meeting of Board of Trustees for deciding the issue and the petition may be disposed of in these terms, learned counsel for the petitioners agrees to the proposal. The petition is accordingly disposed of.”

2. In pursuance of the aforesaid order disposing of this petition, the contempt application was filed and was taken up on 22.3.2018. On 22.3.2018 the Counsel for the alleged contemnor filed a statement which was taken on record and copy was supplied to the petitioner's Counsel. Counsel for the alleged contemnors further stated that up-gradation of the petitioners had been allowed in the light of order dated 18.12.2017 by this Court. The application was disposed of accordingly. This is a second contempt application since the decision of Board of Trustees for up-gradation was reviewed.

3. We have heard the learned Counsel and perused the material available on record.

4. In pursuance of 118th meeting of Board of Trustees of EOBI held on 16.3.2018 the subject item of up-gradation of Assistant Director on completion of 15 years was kept as "Agenda No.2". The decision as taken is disclosed in para-29 of such minutes that the service of Executive Directors who have completed 15 years were promoted subject to the decision of the Hon'ble Supreme Court. The alleged contemnors' statement dated 21.5.2019 in response of 2nd contempt application, was accompanied by the Minutes of 21st Emergent meeting held on 16.5.2018. The agenda No.2 of the said meeting is to review the decision of the up-gradation of Assistant Directors as Executive Directors in the light of 48th BOT meeting and move-over in Grade-7 in the light of 33rd Board of Trustees meeting. The Board unanimously in para-44 of the aforesaid emergent meeting approved the decision of withdrawal regarding up-gradation/promotion of the Assistant Director to Executive Directors taken in 118th Board of Trustees meeting has withdrawn. On this review, the petitioner filed second contempt application which is fixed for hearing. This petition in fact was disposed of in pursuance of the order dated 04.11.2015 of C.P. No.D-764/2014 which is already reproduced above.

5. All that is material for the purpose of deciding the contempt application is the order of 18.12.2017 when the Counsel for the respondent appearing therein, confronted with the letters and decision of 48th Board of Trustees meeting conceded to convene a meeting of Board of Trustees for deciding the issue. The petition was accordingly disposed of in these terms. There was no order of the up-gradation of the petitioner to the post of Executive Director on completion of 15 years' service. To resolve the subject issue, Board of Trustees were required to convene a meeting and the petitioners agreed. The petition was disposed off accordingly. It perhaps on an interpretation of order dated 18.12.2017 that the Board of Trustees resolved to approve the up-gradation of the petitioner as Executive Director as if it was an order of this Court, which Board of Trustees decision was subsequently withdrawn. The alleged contemnor may have stated that the up-gradation was allowed but it was only the statement of the Counsel that was recorded. Neither the withdrawal nor review of earlier decision taken in 118th Meeting could constitute contempt as there was no straightaway direction for up-gradation of the post from Assistant Director to Executive Director. The issue was to be resolved by the Board of Trustees of EOBI.

6. These are the reasons which prevailed in dismissing the contempt application by a short order dated 30.10.2019.

Judge

Judge