

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

C.P. No.D-3730 of 2020

Mohsin Jameel & others
versus
Federation of Pakistan & others

Date	Order with signature of Judge
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1. For hearing of CMA 15583/20
2. For hearing of main case

Dated: 10.03.2021

Mr. Rafiq Ahmed Kalwar for petitioners.
Mr. Ch. Muhammad Ashraf Khan for respondent/NBP.
Mr. M. Nishat Warsi, Deputy Attorney General.

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The controversy involved in the instant petition is apparently covered by judgment of Hon'ble Supreme Court dated 15.10.2016 in Civil Appeal No.1644 of 2013 as well as in Civil Petition No.4337 to 4339 of 2019 in terms whereof the Non-MTO officers were held to be entitled for same salary, perks and emoluments as were applicable and payable to MTO officers working in contemporary grades from the date of the judgment of this Court i.e. effective from 13.03.2013 and the arrears for the difference in such salary/emoluments was ordered to be paid by National Bank of Pakistan to the respondents therein in six equal installments along with monthly salary from ensuing month.

At the very outset learned counsel for respondents/National Bank of Pakistan Mr. Ch. Muhammad Ashraf Khan filed a statement which is taken on record. It provides that National Bank of Pakistan shall extend the same benefits as per judgment dated 15.10.2016, referred above, and the first installment of pay and perks shall be released to the

petitioners along with salary of this month i.e. March 2021. He however has reservation if it could be paid in six continuous installments.

We have perused the order, referred above, and it seems that the order dated 15.10.2016 is in the nature of judgment in 'rem' rather than in 'persona' and these petitioners should not have been compelled to file fresh petition. They (petitioners) however were denied such difference in the salary which compelled them to file this petition to which respondents' counsel had no objection. He however is of the view that these installments should be paid annually.

We do not agree with this statement or interpretation of the learned counsel for respondents as the Hon'ble Supreme Court ordered to pay the arrears for the difference in such salary/emoluments in six equal installments along with monthly salary from ensuing month. Had it been required to pay annually there was no occasion to link the installments of the arrears with the monthly salary from ensuing month. Thus, it was supposed to have been paid in six equal continuous monthly installments, which had not been done. Even otherwise, it has been almost more than five years that the judgment was passed by Hon'ble Supreme Court and these petitioners were denied to be considered at par with MTOs despite judgment in rem. Hence, while taking a lenient view that is instead of paying entire amount in one go, the petitioners be provided the difference in salary/emoluments in six monthly continuous installments along with salary of ensuing month i.e. March 2021 without any default.

Petition stands disposed of in the above terms along with listed application.

Judge

Judge