

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
C.P No. D-2757 of 2021

DATE ORDER WITH SIGNATURE(S) OF JUDGE(S)

Fresh Case :

1. For order on Misc. No.11910 of 2021 (urgent)
2. For order on office objection no.18.
3. For order on Misc. No.11911 of 2021 (Exemption)
4. For order on Misc. No.11912 of 2021 (Stay)
5. For hearing of main case.

20.04.2021

Mr. Ali Asadullah Bullo, advocate for the petitioner.

1. Urgency granted.
2. Office objection be complied within a week.
3. Exemption is granted subject to all just exceptions.
- 4-5. Through the captioned petition, the petitioner is seeking the declaration to the effect that notification dated 08.4.2021 issued by the Government of Sindh, Health Department, whereby Departmental Promotion Committee (DPC) recommended private respondent for promotion as Deputy Director (Admn.) in BPS-18 on regular basis, in violation of the law laid down by the Hon'ble Supreme Court of Pakistan in its various pronouncements. It is contended inter alia by the learned counsel that the petitioner was initially appointed as Medical Officer (BPS-17), in Ministry of Health, Government of Pakistan, through the competitive process in the year 2003, subsequently, the posts of Medical Officers were upgraded from BS-17 to BS-18 vide notification dated 08.05.2009. Per learned counsel, after devolution through the 18th Constitutional Amendment, the services of all the officers and Medical personnel were transferred to the Province of Sindh. Learned counsel emphasized that the petitioner completed Post Graduate Degree of Masters in Public Health, in the year 2010; and on account of his higher qualification, he was posted as Deputy Director (Admn.) vide notification dated 23.11.2016. Learned counsel pointed out that in the earlier round of litigation i.e. CP No.D-1385/2011, his services were returned to the respondent-Jinnah Post-Graduate Medical Centre (JPMC) vide judgment dated 18.9.2012, passed by this Court, and the same was assailed before the Hon'ble Supreme Court in Civil Appeal No.89-K of 2012 which was, later on, dismissed vide order dated 06.8.2015; and, in the meanwhile criminal proceedings were initiated in the aforesaid matter and the petitioner was transferred back and posted as Deputy Director (Admn.) in JPMC. He also pointed out that the petitioner was also assigned the current charge for the post of Deputy Executive Director (BPS-19) vide notification dated 26.11.2018. Petitioner raised his voice of concern by referring to the impugned notification dated 08.4.2021 whereby respondent No.4 was poised to hold the post of Deputy Director (Admn.) by resorting to the purported DPC, which has seriously affected his posting. Per learned counsel, the entire exercise is based on malafide intention to defeat the judgments passed by the Hon'ble Supreme Court as discussed supra. He prays for notice. In the meanwhile, the operation of impugned office order dated 08.4.2021 may be suspended.

To appreciate the contentions of learned counsel for the petitioner as to whether the services of the petitioner were transferred back to the respondent-JPMC in compliance with the orders passed by the Hon'ble Supreme Court; and, his subsequent posting as Deputy Director (Admn.) (BPS-18) was/is under the law or otherwise; and, whether the respondent No.5 was rightly promoted as Deputy Director (Admn.) (BPS-18) vide notification dated 08.04.2021 or otherwise, let at the first instance notice be issued to the respondents as well as to learned DAG for 28.04.2021. In the meanwhile, the petitioner shall not be disturbed from the present posting.

JUDGE

Shahzad

JUDGE