

ORDER SHEET  
THE HIGH COURT OF SINDH AT KARACHI  
CP.No.D-4356 of 2019

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Date: Order with signature(s) of the Judge(s)  
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For hearing of CMA No. 6237 of 2021 (Contempt).  
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**01<sup>st</sup> September 2021**

Mr. Nazir Ahmed Shar, advocate for petitioner.  
Mr. Ali Safdar Depar, AAG alongwith Dr. Sikandar Ali Memon, Chief  
Technical Officer, Health Department and Dr. Muhammad Bux Dahani,  
ADHO, Malir.  
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Order dated 02.09.2020 is that:-

*“.....2. In compliance of order dated 05.08.2020, Muhammad Bux, DDHO RMNCH, is present on behalf of respondent No.2. He has not brought the statement regarding the dues payable to the petitioner as directed vide order dated 05.08.2020. **However, he confirms that the petitioner is entitled to receive GP fund and group insurance of her late wife.** On behalf of the respondents, he undertakes that all the dues of petitioner’s late wife shall be paid to him without fail within one (01) month from today. **It is clarified that if the above undertaking is not honoured, stern action shall be taken against the delinquent officer(s).**”*

*By consent, the petition stands disposed of in the above terms with no order as to costs.”*

The above order, *clearly*, reflects that at relevant time of passing of the order, the entitlement of the petitioner to receive **GP fund** and **Group Insurance**, was not disputed. It is also evident that it was made clear *undertaking*, if not honoured, shall result into stern action against delinquent officer(s). The record, however, shows that on different dates A.G. Sindh sought time for compliance. On 27.04.2021,ailable warrants were issued against Deputy Director Health Department, who appeared on the day when this petition was with the consent disposed of in presence of AAG Sindh. Again matter was listed on 28.05.2021 and 11<sup>th</sup> August 2021, yet contemnor has not complied with final order of this court, on the contrary learned AAG has filed statement of Secretary Health alongwith certain orders with the plea that since G.P fund was not deducted from the account of that LHW, hence, she is not entitled to

receive group insurance. Learned AAG has referred section 8 (a) of **The Sind Civil Servants Welfare Fund Ordinance, 1979**, which is that:-

“8 (a) to such member or members of his or her family as is or are nominated by him or her in full or in such shares as are specified by the deceased civil servant at the time of making the nomination;

2. The bare perusal of above, *prima facie*, shows entitlement of *family* or *nominee* of the family but it, *nowhere*, shows any *bar* to entitlement, therefore, referral to said proviso is of no avail.

3. Though the learned AAG has stated that since the amount of group insurance was not deducted hence petitioner is not entitled but has not referred any proviso of law/rules that such failure i.e non-deduction was/is responsibility of the *employee* (civil servant). Further, that if a law/rule or *procedure* even requires one (department) to deduct all '*dues*' from salary amount of the *employee* then it (department) would not be justified to take any exception to its own fault, particularly where the department itself undertook and affirmed such entitlement, at relevant time. (passing of consenting order). Further, ADHO and Focal person of Health Department present are not in a position to justify that under what reason they were transferring complete salary without any deduction?

4. Without prejudice to above, since there is consent order, no review was preferred even that order was not assailed. In case, if there was no deduction by the department and they were sending salary directly to the account; that is not justification to withhold group insurance. Accordingly, Secretary Health, Government of Sindh shall ensure that group insurance amount is paid as per her entitlement to the nominee without any delay. While parting this order, learned AG Sindh shall ensure presence of any focal person of Accountant General Sindh (A.G. Sindh) to assist this Court that under what capacity complete salary was transferred and they failed to deduct the amount and who were responsible with regard to such irregularity, if any. This exercise shall be completed within 15 days.

JUDGE

JUDGE