

Order Sheet
IN THE HIGH COURT OF SINDH KARACHI
Constitutional Petition No.D –806 of 2022

Date	Order with Signature of Judge
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D/o Matter.

1. For order on CMA No.14257/2022. (Urgent)
2. For order on CMA No.14258/2022. (Review)

27.05.2022 :

Mr. Ashfaqe Ahmed, advocate for the petitioner.
Mr. M.M.Aqil Awan, advocate for respondents.
Mr. Ali Safdar Debar, Assistant Advocate General Sindh.

Alongwith urgent application, another application under Section 114, Rule 1 CPC, r/w Section 151 CPC is moved for review of the order dated 10.05.2022. Mr. M.M. Aqil Awan, advocate and Assistant Advocate General Sindh are present in Court waive notice.

Mr. Ashfaqe Ahmed, counsel appearing for the petitioner mainly submits that at the time of passing the order dated 10.05.2022 another counsel was appearing for the petitioner, case was not properly argued. It is further submitted that counsel for the respondents concealed some material facts from the Court and obtained the aforesaid order, which requires its review.

Mr. M.M. Aqil Awan, advocate as well as Assistant Advocate General Sindh waived notice and submit that it was consent order and there is no error apparent on the record to justify review of the order.

It appears that this Court vide order dated 10.05.2022 passed consent order paragraphs 6 & 7 are reproduced as under:-

"6. The Secretary, Services General Administration and Coordination Department, present in Court submits that there is no dispute so far as seniority up to Sr. No.41 is concerned and he requests for allowing the competent authority to convene the meeting of Provincial Selection Board to consider the cases of the ex-PCS officers (BPS-17) for promotion in BPS-18 up to the seniority list of 41. If this is the position of the case, let the Competent Authority convene the meeting of Provincial Selection Board to consider the cases of Mukhtiarkars for promotion up to seniority list of 41, subject to the final decision of Sindh Service Tribunal at Karachi.

7. In view of the consensus developed between the parties so far as Seniority List of Ex-PCS officers up to Sr. No.41, these petitions stand disposed of with a direction to the competent authority to convene the PSB-II meeting within the shortest possible time and consider the cases of ex-PCS officers for promotion strictly in accordance with law and dicta laid down by the Hon'ble

Supreme Court of Pakistan vide order dated 19.1.2021 passed in Civil Appeals No.4189 to 491/2017 and 99-K to 104-K and Civil Petitions No.563-K to 565-K. However, it is made clear that no prejudice shall be caused to the case of appellants/private respondents in Service Appeal No.32/2022 pending before the learned Sindh Service Tribunal at Karachi.”

Counsel for the petitioner seeks review mainly with regard to paragraph 6 but Mr. Ashfaque Ahmed, advocate was not counsel at the time of passing orders. It is settled law that powers of review could be exercised only when before passing the order (under review) some important facts were not produced by the parties before the Court nor with due diligence same could surface during the proceedings preceding the passing of the order or an omission or error was apparently floating on the face of record.

In the present case, no error apparent on the face of record has been pointed out by counsel for the petitioner. Order dated 10.05.2022 was consent order. No case of review is made out. Review application is dismissed.

JUDGE

JUDGE