

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

**Suit No. -1144 of 2022**

[Fasih Azhar v. Federation of Pakistan through Secretary M/o Petroleum & others]

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Order with signature of Judge(s)

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1. For orders on office objection at flag "A"
2. For orders on CMA No.9810/2022 (U/O XXXIX Rules 1 & 2 CPC)  
(It is respectfully pointed out to the Honorable Court that Court Fee has been filed but not presented which is lying under office objection)

**24.06.2022**

Mr. Ali Asadullah Bullo, Advocate for the plaintiff  
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1. Deferred.
2. Learned counsel for the plaintiff submits that the plaintiff has been serving with defendant Nos.2 and 3 upon having been initially appointed as General Manager (Human Recourses) in the year 2016, which position he enjoyed till issuance of the impugned notice dated 19.05.2022 (page-313) dismissing him. By way of background the learned counsel informs the Court that a dispute arose when the defendants sought invitations for the appointment of General Manager HR, while he was still working in that position, which the plaintiff challenged as he had prior rights and qualification and he been already serving at that position, which resulted in him filing Civil Suit No.268 of 2021, where the defendants were restrained from filling the post of General Manager, HR and were directed by this Court not to take any adverse or coercive action against the plaintiff. Counsel contends that being annoyed with the said outcome, defendants commenced retaliatory inquiry against the plaintiff alleging certain irregularities in the induction process of ELP program for the year 2017-19 alleging that the offer letters were issued to the selected candidates by the plaintiff after the expiry of the approved validity period of the induction as detailed on page-325. Learned counsel states that even those findings yielded that the plaintiff did not have access to H.R database or the diary records, which were mandatorily required for the preparation of such letters, hence his role could not be established in isolation. Per learned counsel, the inquiry report dated 04.10.2021 beneficially observed that in the given circumstances it is **difficult to access that who and how above-mentioned documents related to recruitment of four disputed ELP candidates were prepared.** Learned counsel further states that those

four candidates, on the basis of which this inquiry was called were never called during the inquiry and the plaintiff had nothing to gain from such letters having been issued to those four individuals who were the actual beneficiaries. Per learned counsel, the inquiry report, as referred above, whilst did not post any illegality committed by the plaintiff, nonetheless per learned counsel, according to the disciplinary procedure a mechanism is provided for termination and dismissal, where three months' notice is to be given and due process has to be adhered, which process per learned counsel, was not followed and even the impugned notice dated 19.05.2022 has been issued by the Managing Director, who has no authority to pass such an order, as according to the Executive Staff Service Regulations, any such an order has to be passed by the Board.

Counsel contends that serious malafide pre-existed when this faulty inquiry was conducted and the plaintiff has been victimized on the basis of his earlier initiative to seek justice. Counsel hypothecates that even if the entire exercise is considered to be legit by way of example, the major penalty of dismissal from service on the basis of such frivolous grounds, for which the plaintiff had nothing to gain, does not consummate the alleged illegality, as there were other options available, e.g. of issuing a warning letter etc., which the defendant chosen not to exercise. Per learned counsel the act itself did not constitute any offence or illegality as per Regulations referred above. Counsel concludes by saying that except for the instant inquiry, the plaintiff has never been a subject of any other disciplinary proceedings, and has an unblemished carrier.

Issue notice to the defendants for **11.08.2022**. In the meanwhile, operation of the impugned dismissal notice (page 313) is suspended till the next date of hearing.

JUDGE