

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Suit No. 1332 of 2019

DATE

ORDER WITH SIGNATURE OF JUDGE

1. For orders on CMA No. 11062/19 (if granted)
2. For orders on CMA No. 11063/19 (U/O 39 Rule 1 & 2 CPC)

30.08.2019.

Mr. Malik Naeem Iqbal, Advocate for Plaintiff.

1. Granted.
2. This is a Suit for Declaration and Injunction. Learned Counsel for the Plaintiff submits that Plaintiff along with various other person(s) was appointed by the Selection Committee on 13.4.2009 pursuant to Executive Search as provided in the employment resource provision in the Human Resource Manual of Defendant No.2, and was confirmed as a Permanent Regular Employee on 4.2.2010 as Manager Business Development. According to him, thereafter he was promoted on various posts and presently the Plaintiff is working in Defendant No.2 as Chief General Manager. He submits that on 6.8.2019 a notice for personal hearing was issued to the Plaintiff on the basis of some IOM dated 24.7.2019 issued by the Acting Chief Manager (HR & Admin) and thereafter a Show Cause Notice dated 08.08.2019, by which the Plaintiff is aggrieved and has filed instant Suit. According to him, the said show cause notice has been issued in violation of the procedure provided in the Service Rules of Defendant No.2. Learned Counsel submits that subsequently it has transpired that the basis for issuance of the show cause notice is some Audit Para 3.1.4.5 of the Audit Report for the year 2016-2017 in respect of purported / alleged irregular appointment/promotion of the Plaintiff. Per Learned Counsel pursuant

to such Audit Para, the Departmental Audit Committee (“**DAC**”) was constituted, who took a decision on 30.01.2017, directing the management of Defendant No.2 to clear its position vis-à-vis compliance of codal formalities duly verified from the audit. He submits that this decision was never placed any further, and thereafter on 22.07.2019, another meeting of the DAC was conducted and in that meeting, the DAC has directed to terminate the service of the Plaintiff as per law and present proceedings have been initiated. According to him a decision for terminating the Plaintiff has already been taken without even confronting the Plaintiff, whereas, the issuance of Show Cause Notice is just a formality. Per learned Counsel the DAC has no such authority to make any directions of termination, whereas, no action has been initiated against any other appointments made simultaneously alongwith the Plaintiff and so also the appointing authorities. In support of his contention regarding the validity or otherwise of an Audit Para and the manner in which it has to proceed any further, he has relied upon the case of ***BNP (Pvt.) Ltd. v. Capital Development Authority*** and others reported as **2016 CLC 1169.**

Let notice be issued to the Defendants for **27.09.2019**. Till then the Defendants are restrained from passing any final order pursuant to impugned Show Cause Notice dated 08.08.2019.

J U D G E

Ayaz P.S.