

ORDER SHEET

# HIGH COURT OF SINDH AT KARACHI

C.P.No.D-600 of 2011

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Date Order with signature of Judge  
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For Direction

1. For hearing of CMA No.28563/16 (151).
2. For hearing of CMA No.28562/16 (Contempt)

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13.09.2018.

Mr. Malik Khushal Khan advocate for the petitioner.

Mr. Khalid Javed, advocate for the respondent/alleged contemnor.

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These two applications have been filed on the ground that the respondent/alleged contemnor has not complied with the order passed by this Court on 13.02.2014. Mr. Malik Khushal Khan, advocate has appeared on behalf of the petitioner and stated that the respondent/alleged contemnors were under legal obligation to regularize the petitioner from the date of his appointment i.e. 20.03.2007, whereas he has been regularized from 20.02.2014, which is against the directions of the Court issued vide order dated 13.02.2014. While elaborating his viewpoint, he has stated that on perusal of the statement furnished on behalf of the alleged contemnors it is evident that with mala fide intention, the petitioner was regularized as late as on 20.02.2014, whereas the respondent/alleged contemnors were under legal obligations to regularize the service of the petitioner from the date when he was initially appointed i.e. 20.03.2007.

Mr. Khalid Javed, advocate has appeared on behalf of the alleged contemnors and stated that the stance of the petitioner with regard to regularization from 20.03.2007 is misconceived, as from the order dated 13.3.2014, which was rectified on 05.03.2014, it is clear that directions were issued for regularization of his services since it was the contention of the counsel appearing for the petitioner that after receiving regularization order he will file representation before the competent authority for regularization with effect from the date of his induction in KPT. Learned counsel stated that the respondent was required to issue regularization letter to the petitioner and the petitioner had the right if aggrieved to challenge the same before the competent authority for his regularization

from the date of his induction in KPT. He stated that the respondent /alleged contemnors thereafter in compliance of the order dated 20.02.2014 immediately regularized the services of the petitioner and have duly complied with the order of this Court. He stated that the petitioner thereafter filed a representation before the Chairman, KPT for his regularization which was declined and if the petitioner has any grievance against the said dismissal order, he may adopt the legal procedure as available to him under the law which, according to him, is a separate cause of action. He submitted that both these applications are misconceived and the same may be dismissed.

We have heard both the learned counsel at some length and have perused the record. It is an undeniable position that the respondents have regularized the petitioner w.e.f. 20.02.2014 keeping in view the decision given by this Court dated 13.02.2014. Perusal of the said order clearly reveals that the same was passed with the consent of the parties where the counsel appearing on behalf of the petitioner submitted that the petition may be disposed of however the petitioner reserves his right that after receiving the regularization letter, which then was duly received by the petitioner, the petitioner would file representation before the competent authority for his regularization from the earlier date and the petitioner filed a representation before the competent authority which was rejected/declined. Hence on the face of record, it is clear that compliance of the order dated 13.02.2014, which was subsequently modified vide order dated 05.03.2014, was duly made in its letter and spirit by the respondents/alleged contemnors. We, therefore, do not find any contempt in this behalf.

We also agree with the contention of Mr. Khalid Javed that so far as the matter of rejection of the representation of the petitioner is concerned, firstly it is not the subject matter of the instant petition and secondly if the petitioner is aggrieved with such dismissal/rejection the same is a separate cause of action, for which the petitioner could adopt the legal procedure provided to him under the law. These two applications thus are found to be devoid of any merit and stand dismissed accordingly.

Above are the reasons of our short order.

JUDGE

JUDGE