

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
CP. No. D- 4911 of 2021

Date Order with Signature(s) of Judge(s)

Direction

1. For hearing of CMA No.1698/2023 (u/a)
2. For hearing of CMA No.16651/2022 (Contempt)

19.01.2023

Mr. Manzoor Ali Shah, advocate for the petitioner/applicant.
Mr. Ali Safdar Depar, AAG

1. Urgency granted.
2. This Court vide order dated 01.12.2021 disposed of this petition in the following manner:

“This petition has been filed on the ground that the father of the petitioner while working in the Works and Service Department, Highways Division Naushahro Feroze died during the service on 09.08.2008. Thereafter, the petitioner moved a number of applications to the concerned department for appointment on the basis of “Son Quota” and the same were forwarded by the DO Naushahro Feroze to the Works and Service Department but when heed was paid in this regard by the said department, thereafter instant petition has been filed. Learned AAG states that this petition may be disposed of by directing the concerned department to consider the application filed by the petitioner. We, therefore, under circumstances, direct the Secretary, Works and Service Department to consider the application of the petitioner and if he qualifies for the appointment as Naib Qasid on “Son Quota” basis, needful be done within one month’s time from the date of receipt of this order.

With these directions the instant petition is disposed of. Let a copy of this order be sent to the Secretary, Works and Services Department, Karachi for information and compliance.”

Mr. Manzoor Ali Shah, learned counsel for the applicant, contended that on 18.05.2022 learned Advocate General categorically stated that compliance with the aforesaid order shall be made within fifteen [15] days, but despite the lapse of the stipulated period given by this Court, the above order has not been complied with in its letter and spirit. Learned counsel further submitted that due to delay and negligence of respondent No.2, the petitioner has now become over age and now it is the responsibility of the department concerned to appoint him on the deceased quota while giving back benefits since 2009 and resolve the legal and lawful request of the petitioner.

Learned AAG while referring to the statement dated 14.09.2022 filed by the respondent No.2/contemnor contended that in compliance with the orders passed by this Court, the application of petitioner dated 11.05.2009 was considered/processed, subsequently the case of the petitioner was placed before the Deceased Quota Committee, however, the said Committee rejected the case

of the petitioner on account of being overaged for 21 years against the required age of post under recruitment rules, as such he was found ineligible for recruitment under relevant rules.

We have heard learned counsel for the parties, perused the material available on record and compliance report dated 14.09.2022 on the aforesaid issue.

Prima facie, the petitioner submitted his application on 11.05.2009 for appointment against the deceased quota and his petition was entertained by this court and allowed vide order dated 01.12.2021, however, the respondent department rejected the claim of the petitioner on the ground of being overage.

We have noticed that the respondent Secretary vide Note for Chief Secretary Sindh recommended the case of the applicant for appointment as Beldar against deceased quota subject to age relaxation by the competent authority, through circulation; and the respondents were bothered to obtain an opinion from Law Department and finally rejected the claim of the petitioner on the plea that as per his CNIC petitioner is 49 years old and even after condoning in upper age limit of 15 years, generally allowed to all for government employment, the petitioner cannot be appointed as Beldar (BPS-01) as per recruitment rules of the post, which required maximum 28 years age for such recruitment.

Prima facie, there is no inherent disqualification to the case of the petitioner. So far as relaxation of age is concerned, the competent authority is well within its right to relax the age issue of the petitioner if he cannot be accommodated as Beldar under the recruitment rules, the petitioner could be appointed on any contractual post till his age of superannuation in terms of the ratio of the order dated 01.12.2021 passed by this court.

Let compliance be made by the respondents in the above terms, in case of failure, appropriate order shall be passed against the alleged contemnor for his willful disobedience of the orders passed by this court in terms of the Article 204 of the Constitution. The alleged contemnor shall also be in attendance on the next date of the hearing.

Adjourned to 26.01.2023 at 11:00 a.m.

JUDGE

JUDGE