

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
CP. No. D- 1481 of 2020

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

Direction

1. For order as to maintainability of Misc. No.23788/2022
2. For orders as to maintainability of Misc. No.5944/2022

16.01.2023

Mr. Dileep Kumar, advocate for the petitioners/applicants.

Mr. Ali Safdar Depar, AAG

Mr. Yousif Alvi, Law Officer SPSC

The applicants have called in question the order dated 16.12.2021 passed by this Court, whereby their Misc. Application No.6560/2021 was dismissed with the observation that they availed their three attempts to go through the subject examination, which they failed. However, the applicants have sought special permission for the fourth attempt.

At the outset, we directed the learned Counsel for the applicants to satisfy this Court regarding the maintainability of the review application (CMA No. 5944/2022).

Learned counsel for the applicants contended that the order under review has erroneously departed from the undisputed construction of law laying down that breach of undertaking recorded/given to the Court, which resulted in an order, constitutes contempt of Court. He submitted that the title petition was disposed of by this Court vide order dated 06.01.2021 incorporating the undertaking of the Board of Revenue that while deciding the case of applicants, Section E of the Standing Order No.11 shall strictly be followed without any deviation and rule 14 giving discretion to the Board to allow special permission to its employees to appear in the Revenue Qualifying Examination beyond the third attempt. He further submitted that Board backtracked its undertaking, bringing the applicants to file a Contempt application which was dismissed by this Court. It is contended that the documents submitted by the applicants through the statement dated 16.12.2021 have not been taken into consideration, which shows that the applicants have been discriminated by the Board against the similarly placed employees thereof, who have been favored under rule 14 of Section E of the Standing Order 11 *ibid*.

We have heard the learned counsel for the applicant on the review application and scanned the record with their assistance.

Upon perusal of the order passed by this Court, which explicitly shows that we simply disposed of the captioned Petition in terms of the statement of Assistant Secretary, Board of Revenue, as well as Additional Controller SPSC. During arguments, we have been informed that Special Permission to appear in Revenue Qualifying Examination, the respondent Revenue Department vide letter dated 03.04.2004 informed the Sindh Public Service Commission to the effect that the Government of Sindh, in Revenue Department has amended Rule XII(I) Section -E of Standing Order No.11 vide Notification No. 10-09-2003-Estt:I dated 31.05.2003 inserted the word “not more than three attempts and fourth attempt only in case of an official who has cleared the group in the last examination”. Besides, Standing Order No.11 Section E provides Special Permission.

In view of the above, if the case of petitioners falls within the aforesaid provision of law, the Sindh Public Service Commission shall look into the matter in terms of law, and if the law permits petitioners shall be allowed to appear in Revenue Qualifying Examination as a special case.

For the aforesaid reasons, the listed applications are disposed of in the above terms.

JUDGE