

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
CP. No. D- 128 of 2020

Date

Order with Signature(s) of Judge(s)

For hearing of CMA No.7934/2022 (contempt)

25.01.2023

Mr. Nazar Muhammad Leghari, advocate for the petitioner
Mr. Abdul Jalil Zubedi, AAG

This Court vide order dated 14.01.2022 observed as under:

“16. In view of the foregoing, we are of the considered view that the matter of the petitioners needs to be referred to the competent authority of SPSC to assess their eligibility/fitness/suitability afresh for the subject post by conducting their interview under the recruitment rules within a reasonable time and send the recommendation of successful candidates to the Government of Sindh for appointment on regular posts of District Manager and Assistant Manager (LARMIS). The aforesaid exercise shall be conducted by SPSC within two months after due notice to the petitioners.

17. It is clarified that the cases of the petitioners shall be sent by the respondent-department, separately to the Sindh Public Service Commission and shall not be tagged with the direct recruits. In case any of the petitioners is not found suitable and fit for the subject post, by the Sindh Public Service Commission, he/she shall not be entitled to be retained in service. Let a copy of this order be transmitted to the chairman Sindh Public Service Commission and head of the respondent department for compliance.”

Learned counsel for the petitioner alleged that in compliance with the above order, the respondent No.2/Senior Member Board of Revenue through a letter dated 24-02-2022 sent a letter to the Chairman, Sindh Public Service Commission, Hyderabad whereby the list of officers has been enclosed in which the name of the petitioner has not been mentioned. Per counsel, the petitioner himself approached the office of alleged contemnors pleading that his name has not been forwarded as per the order passed by this Court, but the alleged contemnors have failed to provide a proper reply and despite repeated requests being made by the applicant, the orders of this Court are not being complied with in case of the present applicant on the pretext that the applicant/petitioner had submitted his resignation. That in this regard, an application in writing has also been submitted to Member (R&S), Board of Revenue, Sindh/alleged contemnor No.2 but no action is being taken on such application. Learned counsel for the petitioner submitted that the

applicant/petitioner was appointed through proper channels as he was a regular employee of the University of Sindh and his lien was retained in the University of Sindh. The petitioner who had secured first position by getting the highest marks in the Test result conducted by Sukkur Institute of Business was appointed on a contract basis and from time to time, such period of contract was extended, and as such his lien was also extended by the University of Sindh. However, due to compelling circumstances as his services were not being regularized and as his period of lien was not being extended as such he had submitted a one-month prior notice for resignation on 29-09-2019 from his contractual post, which resignation was not accepted and soon after he submitted the application for withdrawal of resignation on 05-12- 2019 but the same has not been decided as yet. Whereas, the order of this Court contained clear directions that the names of the petitioners shall be referred. But the alleged contemnors by not referring to the petitioner's name, have committed contempt of directions of this Court.

3. In contra learned AAG submitted that in compliance with the above order of this Court, a request was made to the Chairman, Sindh Public Service Commission Hyderabad (SPSC) vide letter dated 24th February 2022 to assess the suitability of the petitioners presently working as District Managers & Assistant Managers on contract basis in the Establishment of LARMIS, Board of Revenue Sindh for regularization of their services. It is averred that the services of Mr. Ghualm Ali alias Atif Ali were hired on a contract basis under the LARMIS Project on 04/02/2014 initially for one year. At that time he was a regular employee of the University of Sindh, Jamshoro, as System Administrator, and the University granted a lien in his favor to continue his new contractual job as District Manager in LARMIS and was relieved. The petitioner submitted his resignation from the contractual services as District Manager on 29/10/2019 in pursuance of Syndicate's Resolution No.29 at its 199th meeting held 05/10/2019 issued to him with the directions to resume duties at the University of Sindh Jamshoro immediately without fail, otherwise, disciplinary action would be taken against him under the enforced rules. His resignation was accepted on 24/12/2019 at his request by the competent authority. It is further submitted that he was relieved from his contractual job at LARMIS on 24/12/2019 to report to his parent organization i.e. University of Sindh Jamshoro to joining his original post as System Administrator. He has been drawing his salary from his original post university of Sindh, Jamshoro since 24/12/2019 till to date. Since he is no more working in LARMIS as District Manager, his name was not included in the list sent to SPSC for

assessing suitability as District Manager. Therefore, the contempt application merits no consideration and the same may kindly be dismissed in the interest of justice.

4. We have heard the learned counsel for the parties on the listed application and perused the record with their assistance.

5. We are not impressed by the submissions of learned AAG for the simple reason that this Court vide order dated 14.01.2022 simply directed the respondents to refer the matter of the petitioner to the competent authority of SPSC to assess his eligibility/fitness/suitability afresh for the subject post by conducting their interview under the recruitment rules within a reasonable time and send the recommendation of successful candidates to the Government of Sindh for appointment on regular posts of District Manager and Assistant Manager (LARMIS), within two months after due notice to the petitioners and it is not open for the respondents to pick and choose the candidates and they have to comply the direction as it is, however, if the respondents were so disturbed from the findings, they ought to have sought permission from this court in this regard showing their inability and now the same is not open for the respondents to defy the direction contained in the aforesaid order, which is constitutional command that cannot be lightly ignored at all until and unless the vires of the order under question is assailed before the Honorable Supreme Court in terms of Article 185 of the constitution. In our view, all the petitioner was/is entitled to the benefit of the aforesaid order passed by this Court, therefore, prima-facie the competent authority of the respondent department was/is under obligation to send his case to SPSC as directed earlier.

6. We are of the considered view that the interest of justice would be best met if the respondents are granted the last opportunity to comply with the direction of this Court in the instant matter without fail within two (02) weeks and to submit a compliance report to this Court on the next date of hearing, failing which show cause notice shall be issued to alleged contemnors on the next date of hearing. To be listed on 09.2.2023 at 11:00 a.m., when alleged contemnors must be present in Court along with their compliance report.

JUDGE

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