

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

CP D 2002 of 2021

Date	Order with signature of Judge(s)
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1. For orders on office objection.
2. For hearing of CMA No.8595/2021.
3. For hearing of main case.

03.05.2023

Mr. Ali Asadullah Bullo, advocate for the petitioner.
Mr. Asadullah Shaikh, advocate for the respondent No.4.
Qazi Ayazuddin Qureshi, Assistant Attorney General.

Per the prayer clause, the petitioner seeks a declaration that non-submission of the recommendations of a DPC dated 06.08.2015 is violative of a judgment of this Court in another petition¹. The petitioner further seeks a direction to the respondents to approve the aforesaid recommendations and resultantly grant promotion to the petitioner.

The first prayer clause *prima facie* reads like a contempt application and while the petitioner² remained within his rights to contemplate a contempt application in the earlier petition, no case could be set forth to entertain such a prayer in a subsequent petition.

Even otherwise, perusal of the judgment in the earlier petition demonstrates that paragraph 1 thereof denotes that the petitioner had himself confined his claim therein to prayer clause "c", whereby a letter dated 01.01.2018 of the Ministry of Commerce had been impugned. The said letter³ is generic in nature and *prima facie* stipulated that the relevant post was meant for initial appointment and not through promotion. The judgment in the earlier petition held that the restraint contemplated was unsubstantiated and specified that the petition was allowed solely to such remit. It is manifest that the judgment did not deliberate or confer any benefit upon the petitioner with regard to his claim for promotion.

The petitioner's claim for enforcement of recommendations of a DPC dated 06.08.2015 in the present petition appears impeded by *laches*. If such a prayer was made in the earlier petition, it was certainly given up, as apparent from paragraph 1 of the judgment in the earlier petition, and if it was not pleaded then no justification was advanced for such omission. Notwithstanding the foregoing, promotion is a matter to be determined by the competent authority, on the anvil of fitness and eligibility, and we have been assisted with no law for this Court to assume the jurisdiction of the competent authority in such regard.

In view hereof, this petition is found to be misconceived, hence, the same, along with pending application/s, is hereby dismissed.

JUDGE

JUDGE

¹ CP D 1478 of 2018.

² Common to the earlier and the present petition.

³ Available at page 331 of the petition.