

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
 High Court Appeal No.259 of 2022

Date	Order with signature of Judge
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1. For orders on office objection a/w reply at "A".
2. For hearing of main case.
3. For hearing of CMA No.2389/22 (Stay)

21.01.2025.

Mr. Aitazaz Manzoor Memon, Advocate for the Appellant.
 Mr. Allauddin Malick, Advocate for Respondent No.37.

The instant High Court Appeal (**HCA**) is directed against the order dated 22.06.2022, passed by the learned Single Judge of this Court in its original jurisdiction in Suit No. 815 of 2010. For convenience's sake, the impugned order is reproduced hereunder:

"After arguing the matter at some length, learned counsel for defendant No.1 as well as Ms. Sara Shah, DGM HR Legal, Ms. Bushra Shafiq, Manager Legal Headquarter and Mr. Shakeel Ahmed, Assistant Manager Final Settlement failed to satisfy this Court of the ground on the basis of which the amount of Rs.1,116,728/- was deducted from the settlement of the plaintiff No.37 as it is alleged that some settlement was agreed by the said plaintiff No.37 in this regard, but no proof has been furnished. It seems that without brining that information and document to the knowledge of this Court or of the Hon'ble Supreme Court which passed orders dated 04.11.2020 and 22.11.2021, a stay has been obtained. Such illegal conduct of the counsel as well as the entity is highly deplorable, cost of Rs.20,000/- is imposed on the counsel and the defendant K-Electric is directed to forthwith in the next six hours (before 8:00 p.m.) present a bank draft in favour of the plaintiff No.37 in the sum of Rs.1,116,728/-, in failure to do so, adverse action will ensue."

Learned counsel for the Appellant contends that the impugned order has been passed without taking into consideration the fact that Respondent/Plaintiff No. 37 has already been paid a lump sum amount as ex-gratia towards the final settlement of dues; however, Respondent No. 37 claimed Rs.1,116,728/- as an additional amount,

which was not required to be paid. He further contends that since the learned Single Judge issued a direction to make payment of said amount within six hours, the same was paid under compulsion; however, if the impugned order is allowed to remain in the field, the other employees, who have already been paid the lump sum amount towards the final settlement, would also come forward to demand an additional amount from the Appellant Company. He also contends that the impugned order, on the face of the record, is unwarranted and without lawful authority; hence, the same is liable to be set aside.

On the other hand, learned counsel for Respondent No.37 fully supports the impugned order.

Heard. Record perused.

It is an admitted position that the instant HCA is against Respondent No. 37 only, and the rest of the private Respondents have already received their amounts. Record reveals that on 12.04.2022, Respondent No. 37 filed an application being CMA No. 6082/2022 in the aforementioned suit, seeking direction to the Nazir of this Court to submit a report about cheques regarding the remaining pensionary benefit amount of Rs.1,116,728/- in compliance with this Court's order dated 22.11.2011, as the other Plaintiffs had already received their cheques as per the order passed in CMA No. 1242/2019 on 04.11.2020. Record further reveals that compliance of the impugned order was made by the Appellant by depositing a pay order in favor of Respondent No. 37 amounting to Rs.1,116,728/-. Prior to the filing of CMA No. 6082/2022, the Plaintiffs in the suit, including present Respondent No. 37, on 26.01.2019 filed CMA No.1242/2019, seeking

direction to the Appellant herein to pay the amount payable to the Plaintiffs, and the learned Single Judge, vide order dated 04.11.2020, allowed the said CMA by directing the Appellant to deposit unpaid salaries as assessed in the table/chart referred to in the order, with the Nazir of this Court within a period of one week, with a further direction to the Nazir to invest the same in any profitable scheme till further orders of this Court or the order passed by the Honourable Supreme Court of Pakistan in CPLA No. 712-K/2019. Thereafter, the learned Single Judge of this Court, on 19.04.2022, passed a consent order directing the Nazir of this Court to release the profit accrued on the unpaid salary of the Plaintiffs, including Respondent No. 37, after proper verification and identification. This order was not challenged by the Appellant; hence, at any subsequent stage, the Appellant has no right to deduct or retain the payable amount of Rs.1,116,728/- of Respondent No. 37.

For the foregoing facts and reasons, this HCA, being devoid of any merit, is dismissed accordingly along with the listed/pending application(s).

JUDGE

JUDGE

Tahseen/PA