

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
C.P. No. D-1794 OF 2016

Date **Order with signature of Judge**

Present

Mr. Justice Muhammad Ali Mazhar
Mr. Justice Abdul Ghani Soomro

Muhammad Iqbal Ujjan & others.....Petitioners

V E R S U S

Province of Sindh & others.....Respondents

Date of hearing: 08.09.2016

M/S Abdul Mujeeb Pirzada and Syed Khalid Shah,
Advocates for the Petitioners.
Mr. Shabbir Shaikh, Law Officer, Board of Revenue.
Mr. Abdul Jalil Zubedi, A.A.G. a/w Mosin Ali, Deputy A.G.,
Shakeel Ahmed, Deputy Secretary, Finance Department,
Syed Saleem, Section Officer, Finance Department and
S. Ataullah Shah, Additional Deputy Commissioner-II,
Sajawal (ADC-II).

Muhammad Ali Mazhar, J: The petitioners have filed this petition with the prayer that directions may be issued to the respondents for releasing their salaries w.e.f. August, 2015. This matter was fixed on yesterday when S. Ataullah Shah, Additional Deputy Commissioner-II, Sajawal (ADC-II) produced copy of letter dated 05.09.2016 which was written to the Senior Member, Board of Revenue Sindh, Hyderabad and Secretary, Board of Revenue Sindh, Hyderabad in which it is stated that salary of 89 employees is stopped for last eight months and non-release of the salaries is highly disturbing. All the employees are working smoothly and regularly in the office of the Deputy Commissioner Sujawal and all were recruited on merits, therefore, the request was made. Alongwith this letter, a list of employees is also attached. The learned counsel submits that the names of all petitioners are mentioned in this list. Since the learned A.A.G. requested for time to call the concerned person from the Finance Department and Accountant General office, therefore, we had adjourned this matter for today. Shakeel Ahmed, Deputy Secretary, Finance Department

appeared and he produced copy of news clipping of Daily Kawish, Hyderabad dated 07.07.2015 and submits that news was flashed regarding some illegal appointments, therefore, the letter was written by the Finance Department to the Accountant General, Sindh to stop the salary vide letter dated 27.07.2015. However, on 27.01.2016, another letter was written to the Senior Member, Board of Revenue Sindh, Karachi and to Administrative Secretaries (All), Government of Sindh with the request to process/decide the cases of reinstatement, deputation and blocked IDs at their own level strictly in accordance with existing rules and regulations. On filing these documents, the Deputy Secretary, Finance Department submits that now the matter is between the Board of Revenue and their employees and Finance Department has nothing to do with this. Similarly, Mosin Ali, Deputy A.G. submits that salaries and IDs have been blocked on the instructions of Finance Department. The learned counsel for the petitioners also pointed out Page 291 of the case file which is a letter dated 25.01.2016 written by the Deputy Commissioner, Sujawal to the Commissioner, Hyderabad Division, Hyderabad in which again it is reiterated that the process of recruitment was initiated by the then Deputy Commissioner by advertisement in newspapers, scrutiny of documents, written examination of the candidates, interview of the successful candidates by the committee and offer letters were issued to the finally selected candidates. Medical was also conducted. It is further stated in this letter that all the persons were recruited on merits. The service books of about all the newly recruited staff were prepared and signed by the competent authority accordingly. It is further stated that recruited new staff is working satisfactorily, unfortunately without salary. Finally, it was requested by the Deputy Commissioner, Sujawal in this letter to the Commissioner, Hyderabad to move the competent authority for the release of the salaries of the poor but meritorious and competent staff of District Sujawal.

2. The matter was called in the first round when the learned A.A.G. requested for time to call the representative of Board of Revenue.

The notice in this case was issued on 19.04.2016 but no comments have been filed by the Senior Member, Board of Revenue, who is respondent No.5 and at present the issue is between the Board of Revenue and their employees. In the second round, Mr. Shabbir Shaikh, Law Officer, Board of Revenue appeared and orally informed that due to allegations of some unlawful appointments, a committee has been constituted by the Senior Member, Board of Revenue to examine the case of the petitioners but at the same time the learned counsel also admits that the petitioners are regularly performing their duties in their respective departments. He further submits that within one month the inquiry proceedings will be completed.

3. After going through the record, it is admitted position that the salaries of the petitioners are blocked but they are already performing their duties. The Deputy Commissioner, Sujawal has written the note with favourable recommendations while the Additional Deputy Commissioner-II, Sujawal has also submitted the copy of the letter in which also request was made to the competent authority to release the salaries. It is also an admitted fact that till today neither any show cause notice has been issued to the petitioners nor any explanation letter nor any inquiry conducted to confront them that they were not employed through due process. On the contrary, the Deputy Commissioner, Sujawal in his letter clearly stated that the then Deputy Commissioner followed the procedure strictly and all appointments were made after due process of law. When the department is itself utilizing the services of the present petitioners, then there is no justification to stop or withhold their salaries. So far as the inquiry is concerned, that could have been completed much earlier and not to drag the petitioners without taking any action against them. It is also admitted position that there is no performance issue reflected in the letter of Deputy Commissioner and in the letter of Additional Deputy Commissioner-II, Sujawal dated 05.09.2016.

4. As the result of above discussions, this petition is disposed of with the directions to the respondents to pay the salaries of the

petitioners for the period they have performed their duties. So far as the inquiry is concerned, that may be conducted expeditiously and in case of any adverse report or remarks against the petitioners, they may be issued show cause notice individually and after confronting the report or allegation if any in their appointment, the necessary action may be taken in accordance with law. However, the respondents shall ensure the payment of salaries of the petitioners within 20 days. All pending applications are also disposed of.

Judge

Judge

Asif