

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
C.P No. D-776 of 2011
C.P No. D-456 of 2014

Date Order with signature of Judge

C.P No. D-776 of 2011

1. For hearing of CMA No. 16557 of 2018.
2. For order on CMA No. 16556 of 2018.

C.P No. D-456 of 2014

1. For order on CMA 25018 of 2018 (Urgency granted)
2. For order on CMA 25019 of 2018

Date of hearing: 09.08.2018

Mr. Sarfraz Ali Maitlo, Advocate for the Petitioners.
Mr. Shehryar Mehar, AAG along with
Mr. Bashir Ahmed Brohi, Additional Secretary & Abdul Samad
Shaikh, Incharge Legal Section.

ORDER

The captioned Petitions were disposed of by this Court
vide Order dated 01.02.2018 with the following observations:-

**“ After hearing all the learned counsel for the parties
and Secretary Agriculture Department, Government of
Sindh at length, by consent, both the petitions are
disposed of on the following terms:-**

- i. **That the Secretary Agriculture Department, Government of Sindh would examine the case of each petitioner, which are stated to be thirty three (33) in number in both these petitions separately and if the credentials/testimonials of those petitioners are found to be in accordance with law and as per the relevant Rules & Regulations and as per the merit list prescribed by the department in this behalf and after fulfilling all the legal and codal formalities, issue offer letters to those petitioners preferably within a period of three (03) months’ time from today.**
- ii. **That the Secretary Agriculture Department, Government of Sindh would call those petitioners for interview whose interview previously has not been conducted, however, the petitioners whose interviews have already been conducted would not be called for the interview.**
- iii. **That the Secretary Agriculture Department, Government of Sindh, however, would be at liberty not to consider any person, who according to his merit list, is a failed candidate.**

- iv. **The Department after completion of the above exercise would be at liberty to take necessary steps with regard to new recruitment as per relevant Rules & Regulations, in accordance with law.**
- v. **That the Secretary Agriculture Department, government of Sindh is directed that after completing above exercise within three (03) months' time compliance report be furnished through MIT-II of this Court.**

With these observations both these petitions along with all the pending applications stand disposed of.

2. Petitioners filed listed contempt applications in both the petitions praying therein to initiate contempt proceedings against the alleged contemnors on the premise that the Respondent No.1 did not examine/scrutinize the matters of the Petitioners as directed by this Court and referred the matter to the Respondent No.2, who in turn constituted a committee of lower grade officers as such violated the order passed by this Court. Learned counsel for the Petitioner has drawn our attention to the purported compliance report filed by the alleged contemnors. Per learned counsel the stance taken by them is not in accordance with law and spirit of the consent order passed by this Court, rather it is contemptuous in its nature thus they have made themselves liable for penal action under Section 3 & 4 of the Contempt of Court Ordinance 2003. Learned counsel has emphasized that the posts were advertised on District level basis; Petitioners were interviewed and declared successful candidates by the Departmental Selection Committee constituted under the law; that the purported scrutiny committee's report is without lawful justification and not mandated by this Court. Learned counsel submitted that the scrutiny committee's report may be rejected and the purported compliance report may be discarded and in the meanwhile Respondents may be directed to issue offer orders to the Petitioners. He lastly prayed for action against the alleged contemnors.

3. Mr. Shehryar Mehar, learned AAG submitted that Committee scrutinized the original documents of all the 33 Petitioners and their credentials were checked and copies of their mandatory certificate for the post of Field Assistant i.e. Field Assistant Training Course Certificates were sent to the concerned

institutions for verification which stood verified by the concerned Training Institutes. The Committee examined the erstwhile final merit list along with the marks obtained by the Petitioners and observed that the names of the Petitioners were not included in the said final list prepared by the Scrutiny Committee due to lesser marks obtained at the time of initial interview; that out of all Petitioners, only one Petitioner namely Riaz Hussain son of Sikandar, who was not interviewed earlier was interviewed by the Committee afresh, he, however could not succeed to qualify the interview; that the Committee has also observed that one Petitioner namely Muzaffar Ali son of Behram Khan Noonari has been appointed as Junior Clerk (BPS-11) on deceased quota. Thereafter the Committee submitted its findings before the Competent Authority as under:-

“In view of above facts and findings, the committee has reached at the conclusion that all the petitioners were rightly declared unsuccessful at the time of selection to the post Field Assistant (BS-11).”

5. Learned AAG has submitted that the Competent Authority re-examined all the documents of 33 candidates/ Petitioners and observed that the findings/recommendations of the committee are true, correct and are in line with the directions contained in the order dated 01.02.2018 passed by this Court; that, the earlier Final Merit List prepared by the Scrutiny Committee as well as District Merit Lists were perused and found that there were 760 candidates, who secured equal or higher marks than the Petitioners but remained unsuccessful. Although their names were not included in the final merit list, they have not agitated it before any forum; that, the Petitioners, who secured equal or lesser marks than the said 760 candidates have preferred litigation; that offer letters for appointment to the post of Field Assistant (BS-11) was issued only to those candidates, who secured highest marks at District level and their names were also included in the final merit list prepared at Provincial level, in the year 2010-11. He submitted that the Petitioners cannot be issued offer letters for appointment to the post of Field Assistant (BS-11) in Agriculture Extension, Wing of this Department. In support of his contention he relied upon the compliance report submitted in

the month of April 2018 and on 04.06.2018 by the Respondents available on the record. He lastly prayed for dismissal of contempt applications listed today. Heard the learned counsel for the parties on the listed applications as well as perused the order dated 01.02.2018 passed by this Court and the compliance report submitted by the alleged contemnors. Perusal of record clearly depicts that the Petitioner's record was examined/scrutinized by the department and found the Petitioners unsuccessful at the time of selection to the post of Field Assistant (BS-11). The important question arises in the present proceedings whether this Court can substitute its findings in place of the findings of the committee, when the Petitioners were declared unsuccessful candidates for the post applied for, the answer is in negative. So far as direction passed by this court vide order dated 01.02.2018 is concerned, we are of the considered view that this case does not require indulgence of this Court in view of the facts and circumstances of the present case and for the reasons alluded as above, we are satisfied with the explanation furnished on 04.06.2018 by the alleged contemnors that substantial compliance of the order dated 1.2.2018 passed by this Court has been made in its letter and spirit, therefore, at this juncture, no case for initiating contempt proceedings is made out against the alleged contemnors. Thus, we are not inclined to continue with any further on the listed application bearing **CMA No. 16556/2018 and CMA No.25019/2018** having no merits, are accordingly dismissed.

JUDGE

JUDGE

Karachi Dated:-09.8.2018.