

**IN THE HIGH COURT OF SINDH,  
CIRCUIT COURT, HYDERABAD**

**C.P. No.D-3161 of 2017**

Present

Mr. Justice Muhammad Iqbal Kalhoro

Mr. Justice Adnan-ul-Karim Memon.

Ali Ahmed Shaikh

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Petitioner

Vs.

The Province of Sindh & others

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Respondents

Date of Hearing: 14.03.2019

Mr. Muhammad Jameel Khan, Advocate alongwith petitioner.  
Mr. Allah Bachayo Soomro, Additional Advocate General, Sindh  
alongwith Jamil Ahmed Ansari, Administrative Officer, Auqaf.

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**ORDER**

**ADNAN-UL-KARIM MEMON, J.** - The instant petition alongwith other connected petitions were disposed of vide order dated 12.10.2017 with following observations:-

*“This bunch of petitions is in respect of deceased quota. All petitioners who claim to be either son/daughter/widow of the deceased employees have filed an application seeking benefit under Rule 11-A of Sindh Civil Services (appointment, promotion, transfer) Rules, 1974. There are a number of judgments of this Court which touches the issue as to the retrospective effect of the notification which provide two years period after the death of the employee. Such effect was highlighted in the judgments reported as 2010 PLC (S.C) 536 and its review 2011 PLC (S.C) 1613. In the first notification of 2<sup>nd</sup> September, 2002, there were certain amendments made in which it was provided that the appointing authority could appoint one of the children of a civil servant/ government employee who died during service, to a post, if such child was otherwise eligible for the post or to the extent of his eligibility and qualification. The said notification would be applicable to all children of government servants who died even before coming into force of the said notification and not only to the children of those government servants who died after coming into force of that notification. In case such applications under Rule 11-A are filed before subsequent notification of 2009 where a period*

*of two years is provided after the death of employee, the notification would not have a retrospective effect and all such applications shall be considered by the committee as constituted by Worthy Chief Minister. The effect of two years in pursuance of notification of 2009 (two year limitation) would take its effect only if an application is preferred after the promulgation of the notification that is after the issuance of notification of 2009 and two years period would then bind the applicant.*

*In view of the above and the mechanism as stated above, all these petitions are disposed of and the applications of the petitioners shall be considered in terms of the above mechanism within a period of 03 (three) months from today by the committee as claimed to have been constituted by Worthy Chief Minister and a fortnightly periodical report as to the consideration of applications of the individuals shall also be placed on record with the Additional Registrar of this Court.*

*All petitions stands disposed of in the above terms.”*

2. On 19.01.2018, Applicant filed application (MA No.977 of 2018) under Article 204 of the Constitution of Islamic Republic of Pakistan, 1973 r/w Section 3 & 4 of the Contempt of Court Ordinance 2003 for initiating contempt proceedings against the alleged contemnors for their willful defiance of the order passed by this court.
3. Mr. Muhammad Jameel Khan, learned counsel for the applicant has argued that the Public functionaries had to reinforce good governance, observe rules strictly and adhere to the rule of law in public service. However, the non-implementation of the judgment on the part of respondents is an injury to those believing in constitutionality and rule of law and amounts to thwarting administration of justice. Learned counsel prayed in the contempt petition that this court may proceed against the respondents for committing contempt of Court.
4. On the other hand, Mr. Allah Bachayo Soomro, Additional Advocate General, Sindh assisted by Mr. Jamil Ahmed Ansari, Administrative Officer, Auqaf has placed on record a copy of minutes of meeting of departmental selection/ recruitment committee and argued that the aforesaid meeting was held

on 26<sup>th</sup> February, 2019 to consider the appointments against the deceased quota of Auqaf Department. He further submitted that out of 34, two candidates at serial No.13 (applicant) and 32 did not appear for interview/verification of record, therefore, were deferred and cleared others. He further added that in the light of minutes of meeting the instant contempt application is not maintainable and is liable to be dismissed.

5. When confronted with such eventuality, learned counsel for the applicant has argued that the applicant was offered the job in BPS-2 instead of Assistant Accountant in BPS-16; that post offered to the applicant is not at par with the qualification of the applicant and was not accepted.

6. We are not satisfied with the assertion of the learned counsel for the applicant for the simple reason that this Court simply disposed of the instant petition alongwith bunch of other petitions with direction to the competent authority to consider the application of the petitioners in terms of the mechanism as provided under the law. The respondents have submitted compliance report which prima facie shows that substantial compliance of the order has been made.

7. In view of the facts and circumstances of the case and for the reasons mentioned as above, we are satisfied with the explanation furnished by the alleged contemnors that substantial compliance of the order dated 12.10.2017 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 persuaded to continue with any further on the listed application bearing MA No.977 of 2018, having no merits, is accordingly dismissed.

JUDGE

JUDGE