

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

C.P. No.D- 1903 of 2014

Present

Mr. Justice Muhammad Iqbal Kalhoro

Mr. Justice Adnan-ul-Karim Memon

Ghulam Qadir

Petitioner

Vs.

Province of Sindh
& others

Respondents

Date of hearing 19.03.2019

Mr. Mazhar Ali Leghari, advocate for petitioner

Mr. Khadim Hussain Leghari, advocate for respondent No.3

Mr. Allah Bachayo Soomro, Additional Advocate General, Sindh along with
Photo Khan (respondent No.8) D.C. Office, Badin.

ORDER

ADNAN-UL-KARIM MEMON-J: - The instant petition was disposed of vide order dated 08.12.2016 with the following observations:-

“At the outset, Deputy Commissioner, Badin present contends that case of the petitioner would be considered for promotion by D.P.C. but exclusively on merits.

With regard to prayer clause that respondent No. 8 namely Photo Khan Khokhar shall be sent to the parent department that is Bureau Statistics, Planning and Development Department, Government of Sindh, counsel for respondent No. 8 contends that earlier respondent No. 8 was working in SAZDA and that Department was abolished and respondent was placed in surplus pool along with other employees of similar nature. He was adjusted in District Government, was working in Finance Department, hence, the respondent No. 8 is working in Statistics, Planning and Development in the office of Deputy Commissioner, Badin, therefore, there is no violation of the judgment of apex Court.

Deputy Commissioner, Badin present undertakes to examine the case of respondent No.8 and in case of any violation, he will comply the same. Show-cause notice issued to Deputy Commissioner, Badin is hereby recalled.

Petition stands disposed of in the above terms.”

2. On 14.01.2017, petitioner filed an application (MA No.418 of 2017) under Article 204 of the Constitution of Islamic Republic of Pakistan read with Section 4

of Contempt of Court Ordinance, 2003 for initiating contempt proceedings against the alleged contemnor.

3. Mr. Mazhar Ali Leghari, learned counsel for applicant submits that even after clear directions of this Court, so also being qualified and deserving candidate, he is not being promoted; that the respondents No.8 has not been repatriated in his parent department.

4. We heard the parties at length on the listed application and perused the material placed on record.

5. We have noted that the case of petitioner and private respondent was examined by the alleged contemnor, who opined that the petitioner Mr. Ghulam Qadir Jamali, Assistant (BPS-16), is on the serial No.02 of the seniority list of Assistants, issued by the Divisional Commissioner, Hyderabad vide order No.995-AC(G)/Commr/2016/2352, dated: 02-11-2016 and the petitioner is to be promoted by the competent authority i.e. Senior Member, Board of Revenue, Sindh, Hyderabad through Departmental Promotion Committee on merit. Record further reflects that private respondent was employee of Arid Zone Development Authority (SAZDA) as Junior Clerk and after winding up of SAZDA, he was absorbed in Planning & Development Department Government of Sindh vide order No.SO(LR)SGA&CD-11(23)2002(Pt-I), dated: 30th October, 2003 of SGA&CD, Govt of Sindh. Moreover, his services were later on placed at the disposal of the Executive District Officer, Finance & Planning, Badin vide Notification No.SC(C)/Admn-II(P&D)8(42), dated:27-01-2004. Later on, he was promoted as Assistant through Departmental Promotion Committee held on 26-07-2007 vide order No.EDO (F&P) BDN/34/2007, dated: 01-08-2007. Consequently upon the revival of the Commissionerate system and abolishing of the Executive District offices, Finance & Planning, he was transferred from Deputy Commissioner office, Badin to Deputy Commissioner office, Tharparkar @ Mithi vide order No.Asstt:/Admn-III/BOR/1021, dated 14.05.2013 issued by the Board of Revenue Sindh, Hyderabad.

6. In compliance of the aforesaid directives issued on 08.12.2016, the deputy commissioner has submitted a comprehensive report. An excerpt of the same is reproduced as under:-

“The undersigned (Respondent No.06) respectfully submits that above mentioned C.P. No.D-1903/2014 was disposed off by the Honourable High Court Sindh, Circuit Court Hyderabad by the order dated: 08-12-2016. Copy of the order is submitted as Annexure-A.

In compliance with supra mentioned order undersigned examined the office record of both petitioner and respondent No.08 (Mr. Photo Khan Khokhar).

The notices were also issued to petitioner and respondent No.08 vide this office letter No.DC/IB/BDN/157/2017, dated 14-02-2017 (Annexure-B) and directed both officials to attend the office of the undersigned with relevant documents but petitioner failed to submit any document.

The office record reveals that the petitioner Mr. Ghulam Qadir Jamali, Assistant (BPS-16), is on the serial No.02 of the seniority list of Assistants, issued by the Divisional Commissioner, Hyderabad vide order No.995-AC(G)/Commr/2016/2352, dated: 02-11-2016. (Annexure-C).

The petitioner is to be promoted by the competent authority i.e. Senior Member, Board of Revenue, Sindh, Hyderabad through Departmental Promotion Committee on merit. It is pertinent to submit here that this office has no objection if the petitioner is promoted.

On perusal of available record of respondent No.08 Mr. Photo Khan Khokhar, Assistant Accounts Officer (BPS-16) it reveals that he was employee of Arid Zone Development Authority (SAZDA) as Junior Clerk and after winding up of SAZDA he was absorbed in Planning & Development Department Government of Sindh vide order No.SO(LR)SGA&CD-11(23)2002(Pt-I), dated: 30th October, 2003 of SGA&CD, Govt of Sindh (Annexure-D). Moreover, the services were later on placed at the disposal of the Executive District Officer, Finance & Planning, Badin vide Notification No.SC(C)/Admn-II(P&D)8(42), dated:27-01-2004. (Annexure-E) Mr. Photo Khan Khokhar (Respondent No.8) was promoted as Assistant through Departmental Promotion Committee held on 26-07-2007 vide order No.EDO (F&P) BDN/34/2007, dated: 01-08-2007. (Annexure-F).

Consequently upon the revival of the Commissionerate system and abolishing of the Executive District offices, Finance & Planning, Mr. Photo Khan Assistant BPS-14 was transferred from Deputy Commissioner office, Badin to Deputy Commissioner office, Tharparkar @ Mithi vide order No.Asstt:/Admn-III/BOR/1021, dated 14.05.2013 issued by the Board of Revenue Sindh, Hyderabad (Annexure-G). Subsequently respondent No.08 was transferred from Deputy Commissioner office, Tharparkar @ Mithi to Deputy Commissioner office, Badin vide order No.Asstt:/Admn-III/BOR/2013/1622, dated: 25-10-2013 (Annexure-H) issued by the Board of Revenue Sindh, Hyderabad. Consequent upon the re-designation, the post of Accountant to Assistant Accounts Officer BPS-16, he was posted in this office vide order No.Asstt/Admn-III/BOR/2015/1542, dated 16-12-2015 (Annexure-I) issued by the Board of Revenue Sindh, Hyderabad.”

7. We have perused the reply of alleged contemnor. We are satisfied with the explanation furnished by him therefore, at this juncture; no case for initiating contempt proceedings is made out against him. Thus, we are not inclined to continue with any further on the listed application (MA No.418 of 2017), having no merit, thus dismissed.

JUDGE

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