

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Suit No. 1018 of 2014

Order with signature of Judge(s)

1. For hearing of CMA No.8270/2014
2. For hearing of CMA No.8397/2014

16.08.2018

Mr. Ziad Khan Abbasi, Advocate holds brief for Mr. Obaid-ur-Rehman Khan, Advocate for the Plaintiff

Mr. Khalid Mahmood Siddiqui, Advocate for Defendant No.2

Mr. Shahab Usto, Advocate for Defendant Nos.5 to 19

Ms. Sameera Iqbal, Advocate for Defendant Nos.1 and 20

1&2. A brief is held for Mr. Obaid-ur-Rehman, who has proceeded abroad for performing Hajj, as well as, for Syed Mehmood Alam Rizvi, who is reportedly busy before another bench, both these counsel are appearing for the Plaintiff.

Learned counsel for Defendant No.2 draws Court's attention to long pending injunction applications where *ex-parte* interim relief was granted vide this Court's order dated 26.06.2014, where operation of the Telex Ref.HQ/CAA/2127/006/HRCP/I dated 30.05.2014 was suspended. By way of background, the counsel submits that the Plaintiff who was working in PG-10 in Civil Aviation Authority was aggrieved on the Defendants Nos.5 to 19 having been promoted from PG-10 to PG-11 for the reasons described in this plaint. Since defendants were aggrieved by the said interim relief Civil Aviation Authority preferred an Appeal bearing No.186 of 2014, which was decided by order dated 07.07.2014 with the observation that the authority shall issue letters to Defendant Nos.5 to 19 in the suit who would be allowed to temporarily stand promoted without prejudice to the rights of the Plaintiff. Per counsel, this observation of my learned brothers has been misconstrued by the Authority who has been considering defendants as temporarily employed which is neither the intent of the order nor such meaning could be attributed to it. It is stated that some of these defendants have retired, however on account of they being so mentioned, their full term employment benefits are not given to them. Learned

counsel for the Authority submits that in fact a position in Group-11 is remaining vacant for the Plaintiff and as and when any decision comes in the instant case, he would be promoted but no prejudice is to be caused to the rights of other individuals who have been duly promoted by the Telex impugned.

Learned counsel for Defendant Nos.5 to 19 supports the contention of learned counsel for Defendant No.2.

Heard the counsel. While a brief is held for the counsel appearing for the Plaintiff who is represented by two independent counsel, however, in the interest of justice I do not find any hesitation in clarifying that the Authority not to construe the word "temporary" as appearing in the order dated 07.07.2014 as temporary employees of the Authority, in fact the word temporary was given to mean "in the intervening period", which has now surpassed four years from the date of the order impugned in the appeal, this Court time and again has directed the parties to proceed with the matter, but the unexplained delay is working adverse to the interest of the private defendants.

I am adjourning this matter to 17.09.2018 however direct the defendant No.2 to ensure making available one vacancy in Group-11, so that in case a decision comes in favour of the Plaintiff, he may join Group-11. His *inter se* seniority also be decided at that instant, however, since an act of court should not prejudice anyone (*Actus Curiae Neminem Gravabit*) the remaining defendants whose names find mention in the impugned Telex are not to be treated as temporary purely on account of these proceedings, nor any discrimination be caused to them on account of mere pendency of these applications.

JUDGE