

Order Sheet

IN THE HIGH COURT OF SINDH AT KARACHI

Constitutional Petition No.D-1051 of 2019
Constitutional Petition No.D-8911 of 2018
Constitutional Petition No.D-1951 of 2020
Constitutional Petition No.D-3367 of 2020
Constitutional Petition No.D-7505 of 2019
Constitutional Petition No.D-7208 of 2019
Constitutional Petition No.D-4056 of 2020

Date	Order with signature of the Judge
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22.10.2020 :

Mr. Muhammad Arshad Khan Tanoli advocate for the petitioner in C.P. No.D-1051/2019.

Syed Sultan Ahmed, advocate for the petitioners in C.Ps. No.D-1951/2020 and 3367/2020.

Mr. Muhammad Waseem Sammo, advocate for the petitioner in C.P. No.D-7505/2019.

Mr. Hakim Ali Shaikh, Additional A.G.

Mr. Khurram Ghyas, advocates for the respondents / KDA along with Nasir Abbas Soomro, Director General KDA, and Atta Abbas Director Finance & Accounts KDA.

Syed Iftikhar-ul-Hassan, Law Officer, KDA.

NADEEM AKHTAR, J. – On 13.03.2020, Director General KDA was directed to appear in person before this Court on the next date along with list of all such employees of KDA whose pension and other post-retirement benefits have been stopped or delayed by KDA. It was further ordered that the above list shall mention the names of all retired employees of KDA, dates of their retirement and the amounts payable to them by KDA. The above list was submitted by the Director General KDA before this Court on 17.03.2020, when the explanation offered by him for withholding the above amounts was rejected and last and final opportunity was granted to KDA to submit a concrete proposal before this Court on the next date of hearing regarding settlement of liability of all the retired employees of KDA in respect of their pension and post-retirement benefits.

On 19.03.2020, a proposal was submitted by KDA according to which an amount of Rs.127,315,000.00 had already been received by KDA towards auction money in respect of 32 units in PHS auctioned on 25, 26 and 27 February 2020 ; Rs.240,643,910.00 was expected to be realized by KDA from successful bidders of the plots auctioned by KDA in the year 2017 ; Rs.200,000,000.00 was expected to be received by KDA in the second phase of auction of the remaining / unsold units in PHS scheduled from 24 to 27 March 2020, auction notice whereof had already

been published in newspapers on 13.03.2020 ; and, Rs.400,000,000.00 was expected to be received by KDA by auctioning plots in different schemes / townships scheduled from 07 to 09 April 2020, auction notice whereof was to be published. The grand total of all the above mentioned amounts received / to be received by KDA came to Rs.967,958,910.00.

The Director General KDA and Member Finance KDA undertook on behalf of KDA on 19.03.2020 that **10%** of the pension and other post-retirement benefits of all the retired employees of KDA shall be paid to them latest by **30.04.2020** and the remaining **90%** shall be paid / settled latest by **31.10.2020** ; and, the Director General KDA undertook to ensure that all retired employees of KDA shall receive pension and other post-retirement benefits as per the undertaking given by him and the Member Finance, whether their names are mentioned in the above list or not. It was made clear to the Director General and Member Finance that their above undertaking on behalf of KDA regarding settlement of pension and all other post-retirement benefits of all the retired employees of KDA shall be deemed to be the order of this Court, and non-compliance thereof shall entail consequences of disobedience / violation of this Court's order. The Director General and Member Finance were directed to publish a public notice on behalf of KDA in Urdu daily 'Jang' and English daily 'Dawn' within ten (10) days from 19.03.2020 notifying the retired employees of KDA that their pension and other post-retirement benefits shall be settled by KDA by paying 10% thereof latest by 30.04.2020 and the remaining 90% latest by 31.10.2020. They were further directed not to use / utilize / appropriate any of the amounts mentioned in the above proposal, or any part thereof, for any other purpose. In order to ensure compliance of this direction, they were also directed to open a new bank account and to transfer / deposit therein all the amounts, received and/or to be received by KDA, as per the above proposal. They are further directed to submit compliance report to this Court along with proof of opening the said new bank account, the transfer / deposit of amounts therein, fate of the auction of unsold units in PHS, fate of the auction of plots in different schemes / townships, and proof of payment of 10% amount to all retired employees as at 30.04.2020.

Vide order dated 05.05.2020, the date of payment of **10%** amount of the pension and post-retirement benefits to all retired employees of KDA was extended till **30.06.2020** and that of the remaining **90%** was extended till **31.12.2020**. The above extension was allowed in view of the request made on behalf of KDA due to the pandemic of Covid-19.

On 25.08.2020, the Director General KDA undertook that the amount of Rs.130,000,000.00 realized by KDA as sale proceeds of some

of its properties and was lying in the separate account opened in pursuance of this Court's order, shall be disbursed to the widows of retired employees of KDA before the next date of hearing, and after paying the same to all the widows, if any amount is left the same shall be disbursed on pro rata basis towards pension and post-retirement benefits of retired employees according to their date(s) of retirement i.e. priority shall be given to those who had retired earlier in time. He also undertook that the public notice in terms of order dated 19.03.2020 shall be published within seven days. At his request, the date of payment of **10%** amount of the pension and post-retirement benefits to all retired employees of KDA was extended, as the last and final opportunity, till **30.09.2020**, with the observation that if the same is not settled on the said date, salary of the present employees starting from the top shall be stopped or properties / assets of KDA shall be attached and sold in order to satisfy the claim of retired employees.

Compliance report dated 07.09.2020 has been submitted today by Atta Abbas, Director Finance & Accounts, KDA, in purported compliance of order dated 25.08.2020, along with a summary of the amounts payable by KDA to its retired employees towards their post-retirement benefits as well as the 10% amount paid to them in pursuance of the aforesaid order. The above are taken on record. According to the above report, public notice in terms of order dated 19.03.2020 was published in newspapers on 27.08.2020 ; a total amount of **Rs.234,749,894.00** is payable by KDA to its retired employees ; and, an amount of **Rs.23,741,450.00**, being 10% amount of the pension and post-retirement benefits, has been paid by KDA to its **988** retired employees. Learned counsel for the petitioners have expressed some reservations with regard to the contents of the above compliance report and state that the orders of this Court have not been complied with by KDA in letter and spirit. The above named Director Finance & Accounts KDA is directed to produce before this Court on the next date of hearing the complete bank statement of the bank account opened by KDA for the above purpose in pursuance of the order dated 19.03.2020.

At the request of Syed Sultan Ahmed advocate, office is directed to fix C.P. No. D-8511/2019 for hearing along with this bunch on the next date of hearing. The officers present today must be in attendance on the next date of hearing. By consent, adjourned to **29.10.2020 at 11:00 a.m.**

JUDGE

Zahid/*

JUDGE