

Order Sheet
IN THE HIGH COURT OF SINDH KARACHI
Constitutional Petition No. D –5585 of 2020

Before:

Mr. Justice Nadeem Akhtar

Mr. Justice Adnan-ul-Karim Memon

Mst. Fakhr-un-Nisa

Versus

The Chief Secretary, Government of Sindh and 03 others

Date of hearing & order : 09.11.2020

Mr. J. K. Jiskani, advocate for the petitioner.

ORDER

ADNAN-UL-KARIM MEMON, J. This petition is virtually for the assumption of the charge against the post of Vice-Principal Male School of Nursing, Sindh Government Hospital, Liaquatabad, Karachi vide notification dated 16.03.2020. It is stated on behalf of the petitioner that, basically the respondent No.3 is not relinquishing the charge of the aforesaid post to comply with the direction of Secretary Health, Government of Sindh.

2. We asked the learned counsel how this petition is maintainable on the premise that it is not the function of this Court to execute the notifications or orders of Secretary Health, Government of Sindh or to direct the respondent No.3 to handover the charge of the aforesaid post to the petitioner. His only reply is that the petitioner has approached this Court for enforcement of the notification dated 16.03.2020.

3. We are not satisfied with his reply for the reason that petitioner is a Civil Servant and she can approach the competent forum for enforcement of her posting order dated 16.03.2020. Reference may be made to the case of Peer Muhammad v. Government of Baluchistan and others, 2007 SCMR 54. Therefore, the forum chosen by the petitioner by invoking the Constitutional Jurisdiction of this Court under Article 199 of the Constitution is not proper under the law. On the aforesaid proposition, the recent decision dated 16.1.2020 of the Hon'ble Supreme Court passed in Criminal Appeal No.622 of 2019 is clear in its terms. Consequently, the instant petition being meritless stands dismissed in limini along with the listed application(s). However, the petitioner will be at liberty to approach the proper forum under the law, if she is so advised.

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