

Order Sheet
IN THE HIGH COURT OF SINDH KARACHI
Constitutional Petition No. D –5334 of 2020

Before:

Mr. Justice Nadeem Akhtar

Mr. Justice Adnan-ul-Karim Memon

Zubair Ahmed Khan

Versus

Secretary Local Government Board Sindh and 06 others

Date of hearing & order : 08.12.2020

Mr. Maroof Hussain Hashmi, advocate for the petitioner.

ORDER

ADNAN-UL-KARIM MEMON, J. Petitioner has approached this Court for the following relief(s) :-

- a) To direct the respondents No.2 & 3 to take the legal action and award / paying the balance amount, remuneration as per both notifications & House Rent @ 50% as well as Adhoc Relief for 10% the schedule may be prepared for every month adjust in the salaries & balance outstanding since 2018 onwards may be awarded immediately.
- b) To direct the respondents No.2 and 3, the petitioner may be awarded to lead all department cases in the high court as well as lower court as focal person.
- c) That the vehicle bearing No.GL-7147 cultus vehicle may be restore to the petitioner as the same has been in use / custody of salman Haider / Respondent No.5 (the terminated officer) & the fuel of the same as per policy may be awarded. As the petitioner is entitled for the same.
- d) That the petitioner being gazette officer of the department may be awarded the proper required staff, with specific facility of office which are being suspended by respondents No.2 and 3.
- e) To direct respondent No.1, to appoint an other enquiry honest, competent and impartial officer instead of Muhammad Farooq Bughti / respondent No.4.
- f) To call complete service profile of the respondents No.5 & 7 to scrutinize their responsibility.
- g) To call the details / complete list of the vehicle awarded to the officers grade 16 & 17 along with their names and numbers.

2. At the outset, we asked the learned counsel to show us the initial appointment letter of the petitioner for the post of Clerk in BPS-05 and his

subsequent promotions in District Municipal Corporation, District Korangi, Karachi.

3. Mr. Maroof Hussain Hashmi, learned counsel for the petitioner, referred to his statement dated 31.10.2020 and argued that the petitioner was initially appointed as Clerk in BPS-05 in the year 1993 thereafter he was promoted to the post of D.E.O BPS-12 vide office order dated 14.11.2014 and then promoted to the post of Head Clerk BPS-14, Internal Audit Department and thereafter promoted to the post of Assistant Director (Admin) BPS-16 in the year 2015 and finally promoted to the post of Deputy Director BPS-17, Law Department, Korangi Zone, DMC Korangi, vide letter dated 03.07.2020 issued by Municipal Commissioner, District Municipal Corporation, Korangi.

4. We have noticed that the petitioner has produced a copy of the offer letter dated 29.06.1993 and not his initial appointment letter. During arguments, we posed another question to him whether he was appointed in the competitive process or otherwise, to which he has replied with the assertion that no competitive process was undertaken by the concerned Zonal Municipal Committee at the time of his purported initial appointment. He is unable to reply to the query.

5. It is well-settled that in absence of codal formalities i.e. advertisement, the constitution of Selection Committee, test and interview, before filling up the subject post, this Court cannot come to rescue and entertain the grievance of the petitioner as made by him in the prayer clauses under the constitutional jurisdiction.

6. Before parting with this order, it may be observed that there are serious discrepancies in the service record of the petitioner regarding his appointment and promotion in District Municipal Corporation, District Korangi, Karachi. We have also noticed that in number of petitions of similar nature pertaining to different departments of the Government of Sindh including KMC and concerned DMCs, the codal formalities as discussed supra were not fulfilled before filling up the subject posts. Prima-facie, this is an alarming state of affairs that needs to be curbed in the bud by taking appropriate measures in time by the competent authority concerned. In view of the above, we deem it appropriate to direct the Chief Secretary Sindh to constitute a High Powered Committee headed by him and comprising Secretary Local Government / Board and representatives of KMC and concerned DMCs as its members, to scrutinize the service record of those

appointees who were initially appointed and subsequently promoted / upgraded in their respective departments without fulfilling the codal formalities, including the present petitioner as discussed supra, within four (04) months and submit compliance report through MIT-II of this Court. Let notice be issued to the Chief Secretary, Secretary Local Government / Board, Government of Sindh, the competent authorities of KMC, and concerned DMCs, for compliance.

7. In view of the above facts and circumstances of the case, no case for our indulgence is made out. Resultantly, this petition fails and is accordingly dismissed in *limine* with no order as to costs.

J U D G E

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Shahzad*