

Order Sheet

IN THE HIGH COURT OF SINDH KARACHI
Constitutional Petition No. D – 5391 of 2020

Date	Order with Signature of Judge
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Priority :

1. For orders on office objections :
2. For hearing of CMA No.23947/2020 (Stay) :
3. For hearing of CMA No.22968/2020 (Stay) :
4. For hearing of main case :

21.12.2020 :

Mr. Esham Mazhar advocate holding brief for Mr. Irtafa-ur-Rehman, advocate for the petitioner.

Mr. Muhammad Nishat Warsi, DAG.

Mr. Ali Safdar Depar, Assistant A.G.

Ghulam Ali Brahmani, Additional Secretary (Services-1), Services, General Administration and Coordination Department Government of Sindh.

Nisar Hussain Mangi, Director-II, Sindh Local Government.

On 02.12.2020, the Chief Secretary Sindh was directed to submit complete details of cases of such Civil / Government servants who, despite facing disciplinary proceedings or criminal cases, are still enjoying the posting. The Chief Secretary Sindh was also directed to submit list of all such Civil / Government Servants who have entered into plea bargain and/or Voluntary Return (VR) under the NAB law.

In compliance of the aforesaid order, a report dated 21.12.2020 has been submitted by the Chief Secretary Sindh along with four separate lists disclosing names, designations and postings of the Civil / Government servants who entered into plea bargain and/or VR under the NAB law, and/or are facing disciplinary proceedings or criminal proceedings. The above report is taken on record.

As per the above report, prima facie, all the Civil / Government servants mentioned therein are still serving in the Government of Sindh despite the fact that they are facing NAB References based on alleged corruption and corrupt practices, and/or criminal or disciplinary proceedings. Therefore, such Civil / Government servants are not entitled under the law to perform their duties and/or to enjoy their posting(s). The Chief Secretary Sindh is directed to ensure that all such Civil / Government servants are not given any posting

and/or administrative assignment till the reference(s) / case(s) / matter(s) pending against them is/are concluded in accordance with law. He is further directed to submit a written explanation on the next date of hearing as to why such Civil / Government servants were promoted and/or allowed to continue with their postings and duties in violation of the law laid down by the Hon'ble Supreme Court.

In the above context, we have observed in number of cases that disciplinary proceedings initiated against Government / Civil servants are not decided or concluded within a reasonable time and due to this reason, the cases of their promotion are deferred. Such unreasonable delay on the part of the department(s) concerned causes hardship for the Government / Civil servants, uncertainty within the department, and unnecessary litigation before the Courts. Therefore, we deem it appropriate to direct the Government of Sindh to ensure that in future action must be taken under Rule 5 of The Sindh Civil Servants (Efficiency and Discipline) Rules, 1973, against all Government / Civil servants against whom disciplinary and/or criminal proceedings are pending ; and, in case of disciplinary proceedings against them, the same must be concluded / decided expeditiously strictly in accordance with law. Needless to say if the Government / Civil servant is exonerated of the charge(s) leveled against him, he/she shall be given the treatment provided for in Rule 8-A of The Sindh Civil Servants (Efficiency and Discipline) Rules, 1973, and Rule 13 of The Sindh Civil Servants (Probation, Confirmation, and Seniority) Rules, 1975.

Issue notice to the Chief Secretary Sindh with direction to submit before this Court on the next date of hearing a comprehensive compliance report as well as explanation in terms of this order in respect of each of the Civil / Government servant mentioned in the report filed today.

To be listed on **14.01.2021 at 11:00 a.m.**

JUDGE

JUDGE