

**ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI**

C.P. No.D-4327 of 2020

Date	Order with signature of Judge
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1. For hearing of CMA 1135/21
2. For hearing of CMA 28278/20
3. For hearing of CMA 28279/20
4. For hearing of CMA 1136/21

Dated: 23.02.2021

Mr. M. Ali Lakhani for petitioner.

Mr. M. Nishat Warsi, Deputy Attorney General.

Ms. Aisha Warsi along with Ms. Amna Warsi for respondent No.2/CAA.

Mr. Jawad S. Sarwana for respondent No.3/PIA.

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Mr. Jawad A. Sarwana files his Vakalatnamas on behalf of alleged contemnors No.1 and 2 and 3 and 4 respectively, which are taken on record.

This petition was disposed of on 14.09.2020 directing respondents including Civil Aviation Authority and Pakistan International Airlines to act accordingly and till the final decision of the appeal of the petitioner, no coercive action be taken. The notices then were issued for 01.10.2020 on some contempt application (CMA 19986/2020) followed by subsequent notices, which application appears to have been disposed of on 04.11.2020. Perhaps aggrieved of some of the actions of the respondents, the petitioner again filed a contempt application which was considered on 01.10.2020, and notice was issued and the matter was sent back to the authority concerned. It was observed in the said order dated 01.10.2020 that the order which was the subject matter of contempt proceedings does not state that same were passed on petitioner's appeal and that the notices were issued to the Director-General CAA who was then acting as Secretary CAA, Government of Pakistan.

On 06.10.2020 it was again reiterated that the services of the petitioner shall not be terminated however he will not be allowed to operate any aircraft as the pilot. Till then there was no appearance marked by the counsel for PIA.

Although two contempt applications are pending against PIA as well as CAA, the notice of application bearing CMA No.1136/2021 against CAA has been recently served upon respondent No.2/CAA and the counsel seeks time to file the counter-affidavit to the said contempt application.

However, insofar as contempt application against PIA (CMA 28279/2020) is concerned, this is in respect of an order of termination of employment of the Petitioner, which is primarily based on the actions of DG CAA in response to orders passed by this Court on a lis whose subject is highlighted in the prayer clauses (i) to (xiii) of this petition. The entire subject of the petitioner's case is summed up in these prayer clauses hence once the order of DG CAA was suspended, the PIA should not in haste proceeded with the matter and issue the termination letter of the petitioner purely relying on the actions and decisions of DG CAA which had already been suspended and the CAA was directed to act strictly in terms of order dated 14.09.2020 followed by orders dated 01.10.2020 and 04.11.2020.

Prima facie even CAA acted in haste and did not comply with the requirements of the orders, referred above. Since the actions of CAA were seriously disputed and this Bench in the aforesaid orders has taken serious notice and taken cognizance, there should not have been an action of terminating the petitioner by letter dated 05.10.2020 and that too after passing of the interim orders referred above.

We, therefore, in view of peculiar facts and circumstances deem it appropriate to suspend termination of employment of petitioner with the

observations, as recorded earlier, that petitioner will not be allowed to operate aircraft as pilot till further orders in these contempt proceedings.

Resultantly, PIA would deposit both the salaries i.e. basic as well as the allowances which the petitioner would have drawn in case license is intact/restored, with the Nazir of this Court separately in two different heads. Petitioner would be at liberty to withdraw basic salary whereas the consequential allowances in response to a license to operate any aircraft shall remain pending with the Nazir of this Court. On withdrawal of the basic salary, the petitioner shall execute indemnity bond in favour of PIA to be acted upon through Nazir of this Court that in case he (petitioner) fails in establishing his case before this Court he would return all such benefits that he would be withdrawing from the Nazir of this Court.

With regard to CMA No.1136/2021 and so also other listed applications, counter-affidavits be filed by CAA with an advance copy to learned counsel for petitioner at least two days before the next date.

To come up on 02.03.2021.

Judge

Judge