

**IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD**

Present

Mr. Justice Nadeem Akhtar

Mr. Justice Adnan-ul-Karim Memon

(1) C.P. No.D- 1794 of 2011

Manzoor Ali ----- Petitioner

Versus

Province of Sindh and another ----- Respondents

(2) C.P. No.D- 1268 of 2012

Allah Warrayo ----- Petitioner

Versus

Government of Sindh and others ----- Respondents

(3) C.P. No.D- 317 of 2016

Zulfiqar Ali ----- Petitioner

Versus

Province of Sindh and others ----- Respondents

(4) C.P. No.D-2549 of 2016

Dayal Chand ----- Petitioner

Versus

Province of Sindh and others----- Respondents

(5) C.P. No.D-2580 of 2016

Ms. Samina ----- Petitioner

Versus

Province of Sindh and others----- Respondents

(6) C.P. No.D-2620 of 2016

Abdul Sattar ----- Petitioner

Versus

Province of Sindh and others----- Respondents

(7) C.P. No.D-2628 of 2016

Abdul Wahid ----- Petitioner

Versus

Province of Sindh and others----- Respondents

(8) C.P. No.D-2633 of 2016

Ghulam Murtaza ----- Petitioner

Versus

Province of Sindh and others----- Respondents

(9) C.P. No.D-3596 of 2016

Sayeda Kiran Batool ----- Petitioner

Versus

Province of Sindh and others----- Respondents

Date of hearing

Date of order: 30.10.2019

Mr. Badal Gahoti, advocate for the petitioner in CP No. D- 1794 of 2011.

Mr. Zubair Mirbahar, advocate for the petitioner in CP No. D- 1268 of 2012 & CP No. D- 2549, 2580, 2620, 2628, 3596 of 2016

Mr. Bhagwandas Bheel, advocate for petitioner in CP No. D- 2633 of 2016

Mr. Allah Bachayo Soomro, Addl.A.G along with Deedar Hussaini Jalbani Director Secondary Education Region Mirpurkhas.

ORDER

ADNAN-UL-KARIM MEMON, J.- The captioned Constitutional Petitions at S.Nos. 2 to 9 were disposed of vide common order dated 13.10.2016 with the following observations:-

“In view of the notifications referred supra, by consent of the parties, all the above cited Constitution Petitions and contempt applications stand disposed of. It is made clear that the petitioners in all the captioned petitions will move their fresh applications along with all the requisite attested documents to the Chairman / Chief Secretary, Government of Sindh, Karachi, within four weeks and the Committee shall examine all the cases individually and decide the applications of the petitioners within four months by affording proper opportunity to the petitioners and after completing all the codal formalities strictly in accordance with rule 11(A) of Sindh Civil Servants (appointment, promotion and transfer) Rules, 1974 as well as Government policy in vogue. In case, the Committee fails to decide the applications submitted by the petitioners within the stipulated period, petitioners would be at liberty to file contempt applications against Chairman of subject committee / Chief Secretary before this Court for redressal of their grievances. Above disposal of the petitions and contempt applications are subject to the decisions / judgments of the Honourable Supreme Court of Pakistan or High Court of Sindh on the subject controversy, wherein, the effect or implementations of the above Notifications would have been examined and decided otherwise. Copy of this

order may be transmitted to the Chief Secretary, Government of Sindh, Karachi as well as Additional Advocate General, Sindh, for information and strict compliance. Compliance report shall be submitted through Additional Registrar of this Court.

2. The Applicants being aggrieved by submitted their respective applications under Article 204 of the Constitution of Pakistan 1973, Read with Section 3 and 4 of Contempt of Court Ordinance, 2003, for initiation of contempt proceedings against the alleged contemnors on account of their willful, intentional and deliberate act of disobeying the above mentioned common order passed by this Court.

3. Learned Counsel for the Applicants have argued that despite clear directions in the above Order the contemnors have not complied with the same; that this Court vide order dated 11.9.2019 directed to learned A.A.G. to seek instruction from the Education department and several other chances were given to the Respondent-Education department to do the needful but till date compliance has not been made for one or the other reason; that their favorites have been accommodated, whereas the Applicants, who qualified the criteria as set forth in Rule 11-A of Sindh Civil Servants (Appointment, Promotion and Transfer) Rules 1974 for the suitable post as per their respective qualifications, the Respondents have adopted discriminatory attitude by single out the Applicants without rhyme and reason. They lastly prayed for direction to the alleged contemnors to issue appointment orders to the Applicants, in compliance of the orders passed by this Court in the present matters.

4. Learned Additional Advocate General has contested the claim of the Applicants and placed on record the copy of progress report which prima-facie show that Applicant Dayal Chand in C.P No.D-2549 of 2016, Miss Samina in C.P No.D-2580 of 2016, and Sayeda Kiran Batool in C.P No.D-3596 of 2016 have been recommended for appointment, however necessary approval of the competent authority is awaited for issuance of appointment orders. He next added that Applicants namely Zulfiqar Ali in C.P No. D-317 of 2016, Abdul Sattar in C.P No.D-2620 of 2016, and Ghulam Murtaza Shah in C.P No. D- 2633 of 2018 have already been appointed as Junior Clerk in BPS-11. He also pointed out that the Applicant namely Abdul Wahid in C.P No.D-2628 of 2016 has been recommended for the post of Lab-Attendant and in this regard placed on record a copy of letter dated 8.1.2019.

5. We queried from learned A.A.G., whether the Applicant namely Manzoor Ali in C.P. No. D-1794 of 2011 has been appointed on any post as per direction of this court or otherwise, he replied that his case does not cover in the policy of deceased quota as provided under Rule 11-A of Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974 on the premise that his father passed away in the year 1992, during service. In support of his

contention he relied upon the compliance report dated 30.10.2019. At this juncture, learned Counsel for the Applicant has refuted his claim and argued that this Court vide order dated 22.10.2013 disposed of his petition on the analogy that the delay in applying for the post will not come in his way as such, the plea taken by the alleged contemnors is after thought and clear violation of the directives passed by this Court in the present matter. In support of his contentions, he also relied upon the order dated 5.10.2016 passed by this Court in the aforesaid matters. He prays for direction to the Respondents to issue him appointment order as has been done in the cases of his colleagues.

6. We have heard learned Counsel for the parties on the listed applications and perused the material available on the record.

7. We have also scrutinized the compliance report submitted on behalf of the alleged contemnors; prima-facie the explanation offered by the Respondents is tenable under the law. However the Applicant in C.P No D-1794 of 2011 has pointed out malice on the part of alleged contemnors warranting interference of this Court to take action against the alleged contemnors under Article 204 of the Constitution, who failed and neglected to issue appointment order to him on the purported plea of applying for the post after considerable period after the death of his father, for the simple reason that order passed by this Court is very clear in its terms needs no further deliberation. At this stage the learned A.A.G. has assured to redress the grievances of the Applicant within a reasonable time. Be that as it may, the orders dated 22.10.2013 and 5.10.2016 passed by this Court in C.P No D-1794 of 2011 need to be complied with in its letter and spirit without fail otherwise adverse inference shall be drawn against the alleged contemnors in accordance with law.

8. In view of the facts and circumstances of the case and for the reasons alluded above, we are satisfied with the explanation offered by the alleged contemnors that substantial compliance of the common order dated 13.10.2016 passed by this Court in all connected petitions has been made in its letter and spirit. Therefore, at this juncture, prima facie, no case is made out for initiating contempt proceedings against the alleged contemnors. Thus, we are not inclined to continue with any further on the listed applications, which are accordingly disposed of in the terms of undertaking given by learned A.A.G. on behalf of the alleged contemnors as discussed supra.

JUDGE

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