

Order Sheet
IN THE HIGH COURT OF SINDH KARACHI
Constitutional Petitions No. D- 3323 of 2021

Date	Order with Signature of Judge(s)
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1. For order of Misc. No.14045 of 2021 (U/A).
2. For order on office objection no.12,14 & 18.
3. For order of Misc. No.14046 of 2021 (Exemption).
4. For order of Misc. No.14047 of 2021 (Stay).
5. For hearing of main case.

31.5.2021

Mr. Muhammad Baqar Mehdi, advocate for the petitioner.

1. Urgency granted.
2. To be complied with within one week's time.
3. Exemption application is granted subject to all just exceptions.

4&5. The instant petition has been filed by the petitioner primarily on the ground that the posting of respondent No.6 as Additional Director General/Member (A&L) Malir Development Authority (`MDA`) vide Notification dated 21st May 2021 (page 49) is illegal, void ab initio and against the dicta laid down by the Honourable Supreme Court in its various pronouncements. It is *inter alia* contended by the learned counsel for the petitioner that the post of Additional Director General/Member (A&L) MDA (BS-20) is also a promotion post that could be filled by initial appointment or by promotion from amongst BS-19 officers on seniority-cum-fitness basis (ministerial Estt) officers are having at least 15 years service/experience in BS-17 and above. Per learned counsel, this is not a cadre post that could be filled by the cadre officers of BS-19, thus the basic appointment of respondent No.6 on Own Pay and Scale (OPS) is in violation of the decision rendered by the Honourable Supreme Court in the case of Province of Sindh and others v. Ghulam Fareed and others, **2014 SCMR 1189**. It is however pleaded that since the eligible officers are available in MDA, therefore, this recourse was erroneously adopted by the respondents and the officer from the lower pay scale was appointed on OPS on a higher pay scale. Per learned counsel, this could hardly be a stopgap arrangement for six months and unless recourse is made for such appointments strictly on merits considering the promotion or direct appointment as the case may, this OPS officer should not have been allowed to continue with the service vide notification as discussed supra. Learned counsel referred to various documents attached with the memo of the petition and argued that eligible officers are available to fill the stopgap arrangement, as such the impugned notification may be suspended.

To appreciate the aforesaid factum of the case, let notice be issued to the respondents as well as to the learned AAG with direction to file comments on or before the next date of hearing. To be fixed after summer vacation.

JUDGE

JUDGE

Nadir*