

Order Sheet
IN THE HIGH COURT OF SINDH KARACHI
C. P. No. D – 3553 of 2021

Date	Order with Signature of Judge
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1. For order on Misc. No.14828/2021 (Urgency)
2. For order on office objection no.18
3. For order on Misc. No.14829/2021 (Exemption)
4. For order on Misc. No.14830/2021 (Fast Track App)
5. For order on Misc. No.14831/2021 (Stay)
6. For hearing of main case.

04.06.2021

Ms. Uzma Rafique, advocate for the petitioner.

1. Urgency granted.
 2. To be complied with within one week's time.
 3. Granted subject to all just exceptions.
 4. Deferred for the time being.
- 5-6. Through the listed petition, the petitioner has prayed for setting aside of his removal from service order dated 16.11.2020 being ultra vires to the Article (2)A, 4, 5, 9 & 25 of the Constitution of the Islamic Republic of Pakistan, 1973. The petitioner has further prayed for reinstatement of his service as Senior Aerodrome Fire Fighter along with back benefits and other ancillary relief(s). It is, inter alia, contended by the learned counsel for the petitioner that the petitioner was appointed as Aerodrome Fire Fighter in the year 2000 and subsequently his service was confirmed in the same year and promoted to the rank of PG-4 vide office order dated 09.07.2010. Per learned counsel, during his tenure of service, he was served with the disciplinary proceedings which were contested by him, however, finally, he was awarded a major penalty of removal from service vide office order dated 16.11.2020 on the premise that he obtained his job based on fake educational documents for which the petitioner denied the allegations by preferring a departmental appeal to the competent authority, which was not acceded to vide appellate order dated 09.12.2020 followed by another application dated 11.1.2021 and followed by review application dated 01.05.2021 on humanitarian grounds. Learned counsel emphasized that the petitioner has been meted out with discriminatory treatment by awarding minor penalties to the colleagues of the petitioner in the shape of withholding of increment for two years and censure, which is violative of Article 25 of the Constitution. Per learned counsel, the respondent Civil Aviation Authority (`CAA`) initiated the departmental proceedings almost after 20 years against an

unverified degree without extending the benefit of regular inquiry. Thus, the appointment of the petitioner could not be declared to be unlawful based on a fake degree without inquiry. In support of her contention, she relied upon various documents attached with the memo of the petition and argued that the impugned order dated 16.11.2020 is liable to be set aside and the petitioner's service is liable to be restored to his original post with back benefits along with the salary of the intervening period. In the alternative, she prayed for the conversion of the major penalty of removal from service into a minor penalty i.e. compulsory retirement, censure as per law.

During the arguments, we confronted the learned counsel for the petitioner, the order dated 21.7.2020 passed by the Hon'ble Supreme Court of Pakistan in Suo Motu Case No.1/2020, whereby the Hon'ble Supreme Court passed the following order:

"9. We find that the CAA has been in a state of disarray. Its computers had reportedly been hacked and some of the employees had been compromised. There were no systems in place to ensure security of records about the regulatory work conducted by the CAA. The DG, CAA is directed to take immediate and effective remedial measures and show results on ground regarding immediate streamlining the affairs of CAA, more particularly, with regard to issuance of suspect Pilot licenses. The Authority is directed to deal with the Pilots whose licenses, educational testimonials or other documents are suspect, in accordance with law. The CAA shall also deal with its own employees and take stern action against all those found involved in violation of or deviation from the rules and procedures and bring them to book. The actions that the CAA will take shall not only be of departmental nature but criminal cases shall also be registered against persons who committed illegal or wrongful acts in CAA. A report regarding remedial steps and actions shall be filed with this Court before the next date of hearing.

10. Reports submitted on behalf of PIA and other airlines also do not give the real picture of the state of affairs of the respective airlines. The CEO of PIA states that he is taking action against the delinquent employees, including pilots possessing fake flying licenses. We expect that he shall do his homework and remove such employees, who are the cause of serious damage to the national airline. He shall file a comprehensive report in this regard within two weeks. We have also been informed that he had taken action against some pilots based on possession of fake licenses and educational testimonials and some other staff was also proceeded against but such proceedings have been restrained by the High Court of Sindh. He maintains that on account of interim orders, his efforts to purge the airline have suffered a serious setback. Let the CEO file a complete list of such cases along with necessary details of the proceedings pending in different Courts.

11. At this stage, Mr. Makhdoom Ali Khan, learned Senior ASC has approached the rostrum and submitted that the Pilots and other Crew members against whom there are allegations of holding fake licenses

and academic testimonials are not being treated in accordance with law by the PIA as well as CAA. He prays that this Court may pass appropriate orders in this regard giving a timeframe within which proceeding should be completed. We however notice that the competent authorities have initiated proceedings and in most cases no final orders have so far been passed. We have taken up the matter as a larger national issue and are not at this stage inclined to interfere or micromanage the same and look into individual grievances. Such interference hampers and stalls the entire process. We would let the department proceedings be completed in due course without judicial interference. AS and when final orders are passed, the aggrieved parties shall have the right to avail such remedies as are provided by the relevant laws before the appropriate fora.

12. Learned Advocate General for Sindh and Balochistan state that they have not been able to file the requisite reports. Therefore, they seek some time to file the same. Let the same be filed within a period of two weeks.

13. Adjourned to a date in office.”(**Emphasis Added**)

Looking at the above perspective and factual position of the case as well as the order passed by the Hon'ble Supreme Court of Pakistan in the above proceedings, learned counsel for the petitioner is directed to satisfy this Court about the maintainability of this petition on the next date of hearing.

Adjourned to a date to be fixed by the office after summer vacation.

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