

Judgment Sheet
IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

C. P. No. D – 2804 of 2016

Before :
Mr. Justice Nadeem Akhtar
Mr. Justice Muhammad Iqbal Mahar

Petitioner : Muhammad Nawaz Bugti,
through Mr. Ali Raza Baloch Advocate.

Respondents : Province of Sindh and 04 others,
through Mr. Zulfiqar Ali Naich Assistant Advocate
General Sindh along with Ali Akbar Shah
Superintendent District Jail Shaheed Benazirabad
and Muhammad Ali Shaikh Deputy Superintendent
Central Prison Sukkur.

Date of hearing : 17.01.2018.

J U D G M E N T

NADEEM AKHTAR, J. : Through this Constitutional Petition, the petitioner Muhammad Nawaz Bugti has prayed that the respondents be directed to issue posting order in his favour for the post Generator Operator in BPS-05 in Sindh Prisons Department. It is contended by him that he was selected for the above post on merits by the Selection Committee vide offer letter dated 26.12.2012 and on the same day he was examined by the Medical Superintendent, Civil Hospital Khaipur Mir's District Khaipur, who issued physical fitness certificate in his favour ; vide letter dated 31.12.2012, respondent No.4 DIG Prisons Sukkur Region sent his name to respondent No.5 DIG Prisons Hyderabad for posting ; and, his name was mentioned at serial No.1 in the list of Generator Operators contained in the above mentioned letter. The grievance of the petitioner is that he has been approaching and requesting the respondents since December 2012 for posting, but till date his posting order has not been issued. It is urged that all legal and codal formalities have been fulfilled by him and as such there is no justification for not issuing posting order in his favour.

2. Respondent No.3 Inspector General of Prisons Sindh Karachi has filed comments wherein he has stated that various posts in different cadres in Sindh Prisons Department were advertised in November 2012 and candidates were invited to appear in written test on 03.12.2012. He has further stated in his comments that offer letters were issued on 26.12.2012 to such candidates who

had qualified written test and interview, with direction to submit their acceptance along with medical fitness certificate within fourteen (14) days. It is important to note that respondent No.3 has admitted in his comments that offer letter in the above terms was issued to the petitioner as well. It is further stated by the said respondent that the recruitment process was frozen in view of Sindh Prisons Inspectorate General letter No.EB-1/204/09 dated 02.01.2013 issued under the directives of the Sindh Chief Minister ; however, the recruitment process was revived on 09.01.2013. Respondent No.5 Deputy Inspector General of Prisons Hyderabad Region has also filed comments wherein he has stated that the petitioner did not report within the stipulated period of fourteen (14) days to accept the offer letter. Learned AAG submits that posting orders were issued only to those candidates who had conveyed their acceptance within the period of fourteen (14) days stipulated in the offer letter, and since no such acceptance was conveyed by the petitioner, posting order was not issued in his favour nor is he entitled to any such relief.

3. Learned counsel for the petitioner points out that C. P. No.3825/2014, wherein similar question was involved, has been allowed by this Court vide judgment dated 16.01.2018. He states that a letter dated 09.02.2016 was issued by respondent No.3 Inspector General of Prisons Sindh to respondent No.4 Deputy Inspector General of Prisons Sukkur Region, which is available in the said C. P. No.3825/2014. As per this letter, there were no written directives from the Sindh Chief Minister regarding freezing of the recruitment process.

4. It is an admitted position that the petitioner had passed the written test, interview and medical fitness examination / test, and offer letter was issued to him on 26.12.2012. It is also an admitted position that the recruitment process was frozen / suspended, but the same was revived subsequently. In these circumstances, the period of fourteen (14) days stipulated in the offer letter for accepting the offer also stood suspended, and as such the petitioner was not bound to convey his acceptance during the said period of fourteen (14) days. It is not the case of the respondents that after revival of the recruitment process another offer letter or any intimation of revival was sent to the petitioner. Thus, the petitioner was not aware of revival of the recruitment process. In the above circumstances, the petitioner cannot be held responsible for not conveying his acceptance within the time period which in any event became redundant upon suspension of the recruitment process. The fact that he is pursuing this matter since December 2012 by requesting the respondents time and again to issue posting order in his favour, leaves no doubt that he had accepted the offer made

to him by the respondents. Since there is no other objection from the respondents' side regarding appointment of the petitioner and no other ground has been urged before us on behalf of the respondents except that acceptance of offer was not conveyed within the stipulated period, we are of the view that the petitioner is entitled to the relief prayed for in the present petition.

5. In view of the above, respondent No.3 Inspector General of Prisons Sindh Karachi is directed to issue posting order to the petitioner within thirty (30) days as per his entitlement, strictly in accordance with the relevant / prevailing law, rules and regulations, and subject to fulfilment of requirements, if any, by the petitioner. Let notice be issued to respondent No.3 for compliance.

The petition is allowed in the above terms with no order as to costs.

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