

ORDER SHEET

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

C. P. No. D – 673 of 2018

Date of hearing	Order with signature of Judge
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For direction

For hearing of CMA No.6608/2019 (C/A)

06-10-2021

Ms. Rizwana Jabeen Siddiqui, Advocate for the petitioner.
Mr. Aamir Latif, Advocate for alleged contemnors.
Mr. Bishar Ahmed Rahoojo, Assistant Attorney General.

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This application has been filed alleging contempt of order dated 09-05-2019, which reads as under:

“After detailed arguments, counsel have agreed that in case review appraisal appeals of the petitioner for the proforma promotion are pending may be dealt with by the Appraisal Review Committee in accordance with law and policy in vogue, preferably within two months after hearing the petitioner. One such last appeal dated 10.09.2017 is apparently available at page-47 of this petition.”

2. At the very outset, we may observe that firstly the above order is not an order on merits; but on the agreement of the parties, and apparently, in such orders, per se, it is not that always a case of contempt can be made out. Nonetheless, from the record, it appears that in compliance of the above order, on 04-09-2019, the grievance of the petitioner regarding Annual Performance Appraisal for 2015-16 has been decided and it has been recommended for revision of Annual Performance Appraisal 2015 from “Good” to “Very Good” performance rating against unconditional consent / withdrawal of all claims in respect of service matters including proforma promotion pending before Sindh High Court or any other legal forum.

3. Despite passing of such favourable order, listed application has been filed for alleged contempt, and while confronted, petitioner’s Counsel

submits that this was only in respect of 2015-16, whereas, in the petition and in the order of this Court, reference has been made to petitioner's appeal dated 10-09-2017, which is, in fact, for the years 2013 to 2016 and no such order has been passed in respect of 2013-14. To this Counsel for the respondents / alleged contemnors has referred to the compliance report and submits that the issue for 2013 and 2014 had already been decided much prior to the filing of this petition, hence, no further orders were required to be passed as the petitioner was well aware about these evaluations of 2013 and 2014.

4. In view of such position, since the matter for years 2013 & 2014 already stood decided much prior to filing of this petition, whereas, against such orders, no finding on merits was given by the Court; nor at the time of passing of the consent order in question, any such grievance was ever raised; rather, placing reliance on letter dated 10.9.2017 an order was sought from the Court, which in fact amounts to misleading the Court as the case for the years 2013-2014 had already been decided. Therefore, in that case the Respondents were not required to once again decide the grievance of the petitioner in respect of these years as well.

5. In view of the above, we do not see as to how a case for contempt is made out, and therefore, in the earlier part of the day by means of a short order, we had **dismissed** the application and these are the reasons thereof.

J U D G E

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Abdul Basit