

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
C.P. No.D-5060 of 2023

Date

Order with signature of Judge

FRESH CASE:

1. For order on CMA No.23155/2023 (Urgent).
2. For order on CMA No.23156/2023 (Exemption).
3. For order on CMA No.23157/2023 (Stay).
4. For hearing of main case.

Dated; 19th October 2023

Malik Naeem Iqbal, Advocate for Petitioner.

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1. Urgency granted.

2. Exemption granted subject to all just exceptions.

3&4. Through instant Constitutional Petition, the petitioner, who is serving as a Pilot / Tug Commander (BPS-19) under Marine Operations Cadre since 10.10.2009 and stands at Serial No.14 of the Seniority List dated 26.12.2019, has expressed his grievance against Office Order dated 18.07.2023, whereby, according to learned counsel for the petitioner, while ignoring the seniority of the petitioner junior officer, namely, Capt. Bilal Maqsood has been posted as Dock Master and Capt. Sheikh Anser Abbas has been posted as Deputy Harbour Master, whereas, respondents No.5/Capt. Sheikh Anser Abbas, according to learned counsel, was appointed as Pilot / Tug Commander (BPS-19) in the year 2017 and whose name does not appear in the seniority list dated 26.12.2019 and through impugned Office Order has been posted as Deputy Harbour Master while ignoring the petitioner, who is senior most of both the aforesaid respondents No.4&5 with malafide intention and in retaliation for the reason that petitioner has earlier challenged the seniority of some of the officers of Port Qasim Authority by filing C.P. No.D-6095/2021,

whereafter, a warning letter was issued by the respondents, which was assailed by filing C.P. No.D-6291/2021, which petition was allowed in favour of petitioner vide order dated 16.01.2023. According to learned counsel, the petitioner is performing his duties to the best of his ability and the satisfaction of the respondents and there is no case of misconduct or inefficiency against the petitioner, however, petitioner has continuously been discriminated by the respondents with ulterior motives. Per learned counsel, it has been consistent practice of Port Qasim Authority that as soon any supervisory post, including Deputy Harbour Master or Dock Master, falls vacant the senior most officers is posted on such post. Learned counsel for the petitioner has referred to various Office Orders dated 18.07.2023, 24.01.2019, 11.12.2018, 10.08.2022 and 20.12.2022, which are available at pages 95 to 103 of instant petition. Per learned counsel, since the petitioner has been denied his right pursuant to legitimate expectancy in view of consistent practice of Port Qasim Authority to appoint the senior most officer on supervisory post, therefore, petitioner has no other efficacious remedy, except to approach this Court by filing instant Constitutional Petition, seeking protection of his right and against discrimination by respondents. In support of his contention, learned counsel for the petitioner has placed reliance on the case of **SYED MAHMOOD AKHTAR NAQVI v. FEDERATION OF PAKISTAN (PLD 2013 SC 195)**. It has been prayed that operation of the impugned order may be suspended, and the respondents may be directed to consider the petitioner for appointment on such post in accordance with law and the consistent past practice.

It has been further contended by the learned counsel that petitioner has already filed a Constitutional Petition No.D-3274/2023, wherein, Notices have been issued to the respondents and the

operation of impugned office order has been suspended, therefore, requests that notice of instant petition may be issued and the interim relief granted in the aforesaid petition may also be extended in the instant petition.

Let pre-admission notice be issued to the respondents as well as to the D.A.G., to be served through first three modes, for **27.10.2023**, when the aforesaid C.P.No.D-3274/2023 may be taken up alongwith instant petition, whereas, comments/reply, if any, shall be filed with advance copy to learned counsel for the petitioner. In the meanwhile, the interim relief granted to the petitioner in C.P.No.D-3274/2023 shall apply *mutatis mutandis* in the instant petition.

J U D G E

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Farhan/PS
