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ORDER SHEET
IN THE HIGH COURT OF SINDH CIRCUIT COURT LARKANA
C.P No.D-No.80 of 2012

DATE	ORDER WITH SIGNATURE OF JUDGE
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For orders on office objections.
For katcha peshi.

23.8.2016.

Mr. Rashid Mustafa Solangi, Advocate for the petitioner.
Mr. Ali Akbar Kalhoro State Counsel.

The instant petition has been filed with the following prayers:-

- a) That this Honourable Court may be pleased to direct the respondents to release the salaries of the petitioner without any further delay and not to create hurdle in future regarding salaries of the petitioner;
- b) That this Honourable Court may be pleased to declare the act of the respondent No1. i.e. verbal direction to the petitioner that he is no more required for service, is illegal ultra vires ab iniito hence unconstitutional and so also in violation of the fundamental rights; and further directions be given to the respondent No1. To continue the services of the petitioner as per law:
- c) To award any other relief as deemed fit and adequate under the circumstances

It is contended by the learned counsel for the petitioner that in the year 2007 the petitioner applied for the post of Naib Qasid BPS-1 and after completing codal formalities, he was issued appointment order dated 28.2.2007 and he served as Qasid in the office of E.D.O, Education Shikarpur and received salary from the very beginning up-to July 2009 and thereafter his salary was stopped.

Comments have been filed by the respondent No.2, wherein it has categorically been stated that on the verification of the office record it was found that the name of the petitioner did not exist in the list of 246, employees and the office allowed the petitioner to join duty against unsanctioned post without getting his appointment order verified from issuing/competent authority and taken duty on managed resumption report and also made payment of salary for about two years period, without

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counter signing his pay bills. It has further been stated in the comments that when the bogus appointment/ joining of the petitioner came into their knowledge respondent No.1 and 2 through this petition, the respondent No.2, rejected/disallowed/ appointment/joining of petitioner from the date of joining vide letter No.69 dated 16.4.2012.

After going through the comments, the learned counsel for the petitioner submits that at least petitioner is entitled for the salary upto date he worked as Naib Qasid in the office of respondent No.2, in support of his contention he has relied upon the case of Muhammad Zahid Iqbal and another v. D.E.O, Mardan and others (2006 SCMR 285) and Secretary to Government of NWFP. Zakat/Social Welfare Department, Peshawar and another (1996 SCMR 413) wherein it has been held by the Apex Court that once the appointees are qualified to be appointed, their services cannot subsequently be terminated on the basis of lapses and irregularities committed by the department itself.

On the other side learned State counsel submits that since the very appointment of the petitioner was bogus, the petitioner is not entitled for any salary.

We have heard learned Counsel for the parties and perused the material available on record.

It is an admitted position that the petitioner has not challenged rejection of his appointment order No. 69 dated 16.4.2012, meaning thereby he has admitted that his appointment was bogus. The person who obtains or managed a bogus appointment order, cannot be entitled for any benefit of service including the salary for the work he done. The case law cited by learned counsel for the petitioner is distinguishable to the case in hand as the same pertains to "illegal/irregular appoint" while in the instant case the appointment order of the petitioner is bogus/fake.

We therefore, dismiss this petition being devoid of any merit.

S.Ashfaq