

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI

C.P. No.D-393 of 2025

DATE	ORDER WITH SIGNATURE OF JUDGES
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1. For hearing of CMA No.11190/2025 (Stay)
2. For hearing of CMA No.11196/2025 (151 CPC)
3. For order on office objections No.18 & 22
4. For order on CMA No.2124/2025 (Exemp. Appln)
5. For hearing of CMA No.2125/2025 (Stay)
6. For hearing of main case

29-05-2025

Mr. Khawaja Shams-ul-Islam, advocate a/w Mr. Imran Taj, Advocate and petitioner.
 Mr. Asad Iftikhar, advocate for respondent Nos.1&4 a/w Mr. Mr. Masroor Ahmed, advocate and Mr. Asadullah Khan, respondent No.1.
 Mr. Zeeshan Adhi, Addl. Advocate General Sindh.

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3. Deferred.
4. Exemption application granted subject to all just exceptions.

1,2&5: CMA Nos.11190, 11196 & 2125 of 2025: The petitioner, Mr. Mohammad Rashid Siddiqi, is a Karachi Water & Sewerage Corporation (KWSC) employee. Mr. Siddiqi is aggrieved that Mr. Asadullah Khan, another KWSC employee, holds the posts of Chief Executive Officer and Deputy Managing Director (Technical Services) at the KWSC. Mr. Asadullah Khan retired on 01.05.2022.

Two appointments were made at the KWSC on 30.09.2022. Mr. Asadullah Khan was appointed Chief Operating Officer for three years, and Mr. Syed Salahuddin Ahmed was appointed Managing Director/Chief Executive Officer for four years. Certain disciplinary proceedings were initiated against Mr. Ahmed, who was directed on 05.01.2025 to cease performing his functions till the enquiry against him culminated.

Mr. Asadullah Khan. In addition to his duties as Chief Operating Officer, he was given the additional task of Managing Director/Chief Executive Officer. When this petition was filed on 29.01.2025, the above was the position.

On 24.03.2025, Mr. Salahuddin Ahmed (the permanent Managing Director/Chief Executive Officer) resigned from his position, and Mr. Ahmed Ali Siddiqui temporarily replaced him until a regular officer was appointed under section 11 of the Karachi Water and Sewerage Corporation Act, 2023.

The current position is Chief Operating Officer, Mr. Asadullah Khan, and Mr. Ahmed Ali Siddiqui, Managing Director/Chief Executive Officer. The petitioner believes that both, Mr. Asadullah Khan and Mr. Ahmed Ali Siddiqui were not qualified to hold the offices given to them on two grounds (i) an officer who had retired i.e. Mr. Asadullah Khan, could not be appointed as Chief Operating Officer, and (ii) Mr. Ahmed Ali Siddiqui could not be appointed as the Managing Director/Chief Executive Officer because he was not of the requisite grade.

We have heard the learned counsel for the petitioner extensively. We have also listened to the learned Additional Advocate General and the learned counsel for Mr. Siddiqui and Mr. Asadullah Khan.

Mr. Khawaja Shamsul Islam has argued vehemently and passionately, as he always does. His thrust has been that both gentlemen are "civil servants". He has thus cited judgments concerning civil servants' appointments, promotions, re-employments, etc. Needless to say, the learned Additional Advocate General has taken a contrary view. In addition, he also raised the question of laches. We are cognizant that this is an interlocutory application before us and have thus looked at it from the well-settled principles of temporary injunctions. For this very reason, we have not mentioned the arguments submitted, as we believe those are arguments to be considered when the case is heard.

The law currently applicable to the KWSC is the Karachi Water and Sewerage Corporation Act, 2023. This statute repealed the previous Karachi Water and Sewerage Board Act, 1996; however, certain savings were made as listed in section 49 of the Act. Prima facie, section 43 of the Act provides that every employee of the Corporation shall be deemed to be a “public servant” within the meaning of section 21 of the Pakistan Penal Code. Prima facie, the employees of the Corporation are not civil servants; therefore, the cases cited and arguments rendered by the petitioner's counsel are not applicable. Prima facie, section 11 of the Act of 2023 provides that the Chief Executive Officer should be below 65 (which Mr. Ahmed Ali Siddiqi is). Prima facie, section 15 of the Act of 2023 provides that the Chief Operating Officer should have proven technical qualifications and relevant experience. The appointment of both gentlemen prima facie does not breach the law in the field. The law does not stipulate that a retired person cannot be appointed to these posts, nor does the law stipulate that only a particular grade can hold such a post. The petitioner has failed to make out a prima facie case.

The KWSC controls the supply of potable water and sewage disposal in Karachi. Although its efficacy in this regard has remained debatable, as the residents of a large part of Karachi continue to be deprived of potable water and sewage, and as a consequence, residents of Karachi are compelled to buy water at exorbitant rates, we believe that improving the workings of the KWSC is a matter best left to the executive. The matter in front of us is not public interest litigation. At the same time, the efforts taken by KWSC should also not be brushed under the carpet. Karachi is a vast city, and stopping the senior officials from work can potentially cause irreparable loss and damage to the people of Karachi. The balance of convenience also lies in favour of KWSC.

The working and functioning of the government must not be hindered. If it is, the already chaotic city of Karachi will

further suffer. Neither KWSC nor the petitioner, but the people of Karachi, will be the biggest casualty. This case relates to basically a self-acknowledged whistleblower who, after a passage of two and a half years, realised that certain appointments at the senior level were made incorrectly in KWSC. We appreciate his concern for the betterment of the organisation. Better late than never. At the same time, we cannot interfere with the government's running. Courts must not interfere in executive matters unless a clear breach of law is demonstrated. The petitioner was unsuccessful at this stage.

We are, however, constrained to observe the non-serious attitude of the Sindh Government and the KWSC during these proceedings. This petition has been pending a hearing since January 2025. None from the Government of Sindh/KWSC took it seriously until we were compelled to make a restraining order on 23.05.2025. Only after that did the GoS/KWSC appear rudely woken from their slumber, and proper assistance was rendered. The petitioner arose from a slumber after more than two years. KWSC should not have waited four months to wake up from its slumber. Such handling of a case must necessarily be disapproved. A law officer and outside counsel must bring dignity and respect to the government with their knowledge, preparation, arguments, dress, and conduct. The Minister of Law, GoS, is requested to increase the province's effective and knowledgeable legal representation.

The three main governing principles of injunctions all favor the Corporation. We, therefore, deem it appropriate to recall our interim order of 23.05.2025. The status of KWSC employees, i.e., whether they are civil servants or not, may be argued by the parties at length when the main petition is argued. It is not appropriate for senior offices of KWSC to be filled with temporary postings. The learned Additional Advocate General has informed us that the Corporation has already initiated the process of appointing a permanent Chief Executive Officer. We are hopeful that the correct candidate, whose

appointment complies with all conditions stipulated by the applicable law, rules, and regulations, shall be appointed within two months from the date of this order.

6. Relist in the third week of August.

JUDGE

JUDGE