

ORDER SHEET  
IN THE HIGH COURT OF SINDH,  
CIRCUIT COURT HYDERABAD

C.P. No. 494 of 2010

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<b>DATED</b>	<b>ORDER WITH SIGNATURE OF JUDGE</b>
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Date of hearing: 28.08.2017.  
Date of order: 04.10.2017.

Petitioner present in person  
Mr. Zulfiqar Ahmed Rajpoot, Asst Attorney General  
Dr. Muhammad Saleem Shaikh on behalf of WAPDA

ORDER

**FAHEEM AHMED SIDDIQUI, J:** On the third Sunday of March of every year, the *World Disabled Day* is observed. This day is also observed in Pakistan by holding seminars, walks, publishing articles in newspapers and holding talk-shows. The very purpose and object of *observing / naming* a day for a *specific* purpose is *itself* sufficient to say that there remains need of a *constant* hammering the *earlier* celebrated days. These activities might be important for the sake of awareness but an awareness *alone* can bring no *fruit* at all unless and until both *ends* i.e **recipient** and **authority** are connected by some *mechanism* whereby **due** reaches without any *inconvenience* in name of formalities. In short, all these activities will be futile if such awareness is not materialized in substantial and perceptible manner but remains *part* of some newspapers or TV programmes.

The applicant/petitioner is the father of a son, who is suffering from paraplegia due to a severe trauma, happened to him in his teenage. He was under full medical cover when the petitioner was serving with the respondent (WAPDA) but after his retirement, the miseries and sufferings of petitioner started. Under the pretext of certain rules, the medical coverage *otherwise* available to completely disabled son of the petitioner (*employee*) was denied. However, it was a sigh of relief when the instant petition was allowed, but the respondents were still reluctant to do the needful in this respect. The respondents approached the Apex Court, where the petition for leave to appeal being CPLA No. 435-K filed by the respondents was dismissed vide judgment dated 8-9-2010. They filed a review petition, which was disposed of with the following observation:

*“Learned ASC for the petitioners, after arguing this petition for review at some length, candidly stated that, as a last recourse, he will be satisfied with the disposal of this petition in the term that application of judgment dated 8-9-2010, shall be restricted to the son of the respondent, and it shall not be treated as an instance/example for providing similar facility to any other employees of the petitioners, who shall be dealt with a strictly in accordance with the relevant law, i.e. Pakistan WAPDA Employees Medical Attendance Rules, 1979.*

*Review petition is then disposed of with the above observation.”*

2. It is unfortunate indeed that even passing of the above judgment which *otherwise* based on *commitment* of the respondents *themselves*, the petitioner is still running from pole to post and the respondents failed to make compliance. The above back-ground *prima facie* establishes entitlement of applicant / accused which even stood affirmed by Apex Court believing the *words* of respondents *themselves* hence the respondents were / are not legally justified to keep such *earned* entitlement hanging *rather* defeated any more. Needful to add here that *commitment / undertaking*, if made during legal proceedings, should never be taken lightly because same *normally* makes the *rival* or Court even to proceed on such *commitment / undertaking*. It is *prima facie* evident that matter was decided by Apex Court in year 2010 yet the respondents are not in a position to *proudly* come forward with statement of having complied with their *own* *commitment / undertaking*. Considering overall attitude of the respondents, we are obliged to pass an order that the respondent (WAPDA) should deposit an amount of Rs. 10, 00, 000/-with the Additional Registrar of this Court within (30) days and meanwhile they are required to verify the bills submitted by the petitioner and then to furnish a report. The amount of verified bills will be paid to the petitioner out of *deposited* amount while the remaining amount will remain to be available with the Additional Registrar of this Court for the recurring future expenses of the son of the petitioner in this respect. It is worth mentioning that although the case of the son of the petitioner will not be a precedent for example for any other similar case but the expenses occurred

on the medical treatment of the petitioner's disabled son should be borne by the respondent (WAPDA).

3. At this juncture, we would like to observe that the cases of similar nature like that of son of the petitioner are bound to happen with the other people whom may have more resources to get the requirements of medical and psychological treatment of such children and persons however, it shall always be the duty of the government to *own* them by coming forward and provide assistance to such parents, who found themselves in great misery only because any of their sons or daughters are suffering from diseases like paraplegia, Cerebral palsy, Dopa responsive dystonia (DYT5) or similar diseases. We suggest that the degree of disability of such persons should be measured on some scale. In this respect, we have to distinguish between a *handicapped* and a *disabled* person. A handicapped child or adult is one who, because of the disability, is unable to achieve the normal role in society proportionate with the other persons of his age and socio-cultural background. As an example, an adolescent boy or girl, who is unable to prepare his own meal or care for his own toilet or hygiene needs is handicapped. On the other hand, a boy or girl of similar age who can walk only with the assistance of crutches, but who attends a regular school and is fully independent in activities of daily living is disabled but not handicapped. However, with the assistance of medical and social experts, a proper definition for fully handicapped, partially handicapped and disabled persons may be adopted for evolving a state-owned system of taking care of those persons who are fully handicapped.

4. Those of them are lucky enough, who would have been taken care by their close relatives or are adopted by an NGO for the betterment of such persons but the fate of other such persons is really hard, as they might go into the hands of professional beggars, which is really a stigma for the society. We consider that it is the duty of the government to take care of those people and to provide full assistance to them from the resources of government.

5. Thus, we direct the Social Welfare Department of the government of Sindh to establish a liaison with medical universities, the provincial zakat council etc and should chalk out a comprehensive system

for handicapped persons so that they may be provided all facilities at their home. The medical expenses of all those fully handicapped persons should be borne by the Government of Sindh. We; therefore, direct the Social Work Department of Government of Sindh to make provisions in their budget for the coming financial year and the Finance Department is directed to provide financial assistance for such a program. The Social Work Department is further directed to submit the outline of this program within 15 days, so that further order may be passed.

JUDGE

JUDGE