

IN THE SUPREME COURT OF PAKISTAN

(Original Jurisdiction)

Present:

Mr. Justice Iftikhar Muhammad Chaudhry, CJ.

Mr. Justice Amir Hani Muslim

Suo Moto Case No.18 of 2011

And C.M.As No.4823-4825, 4916 & 4820/2011

And H.R41939 of 2011

(Irregularities and Non-Payment of Salaries/Pension to Pakistan Railways employees)

On Court Notice: Maulvi Anwar-ul-Haq, AGP

For Pakistan Railways: Rai Muhammad Nawaz Kharal, ASC
Mr. M. Naeem Malik, GM, MTS
Mr. Ahsan Mehmood Mian, Addl. G.M,
Mr. Muhammad Tariq Khan, CME/WQ
Mr. Shafiqullah, Secy, Railways Board
Mr. M. Azam Ghafoor, Chief Controller
Mr. M. Ashraf Lanjaar, Director (LA)

For NAB: Mr. Akbar Tarar, Addl. P.G. NAB
Mr. Fauzi Zafar, ADP, NAB

In C.M.A 4820/2011: Nemo

In CMA 4823/2011: Mr. Salman Akram Raja, ASC
With Sheikh Rashid Ahmed,
Former Minister, Railways

In CMAs 4824,4825/11: Mr. Zulfiqar Ahmad Butta, ASC
& 4902/2011

In CMA No.4916/11: Syed Zafar Ali Shah, Sr. ASC

In CMA 5088/11: Mr. Hafeezullah Cheema, ASC
in person

In CMA 5225/11: Sardar Ayaz Sadiq, MNA/ Chairman
Standing Committee on Pakistan Railways

Date of hearing: 30.11.2011

ORDER

Iftikhar Muhammad Chaudhry, CJ.— Sheikh
Rashid Ahmad, Former Minister for Pakistan Railways

pointed out that after commencing hearing of this case, 20 locomotives have been rehabilitated and are being used with railway trains. Former Minister has also referred the audit report of current year and read out different portions therefrom, according to which huge losses have been caused to the Railways on account of mismanagement, corruption and corrupt practices, etc. Surprisingly the concerned authorities have failed to initiate action against the persons responsible, till date. Mr. Shafiqullah, Secretary Railways Board stated that in addition to it, 21 locomotives shall also be rehabilitated on or before 21st December, 2011

2. It may be noted that identical objections in regard to corruption were raised on the last date of hearing in respect of auctioning of the scrape and we had directed the Chairman NAB to look into this matter and initiate actions according to law. In respect of the audit report as well, we direct the Chairman that he should collect the audit report from the Railways Department and examine the same to ascertain the criminal liabilities of the officers/officials and other persons responsible for the corruption and corrupt practices. The learned Attorney General for Pakistan as well as learned Additional Prosecutor General, NAB pointed out that in compliance with the orders of this Court, action has already been initiated by NAB.

3. Sardar Ayaz Sadiq, MNA, Chairman Standing Committee on Pakistan Railways has appeared and stated that there is no such serious problem with the Railways except the things are becoming complicated for one or the other reason. He has pointed out that bailout packages have been issued and by the time 12 billions have been received by the Railways Department but on account of mismanagement, no progress has been made for rehabilitation of Railways. One of the reasons pointed out

by him was the non-functioning of the Railways Board. The Secretary Railways Board stated that about one year back Prime Minister of Pakistan had accorded approval of the Railway Board wherein names of some of the private persons had been mentioned but despite lapse of a sufficient time the Board has not been notified. He further stated that the Government should nominate such persons to be the members of Board, who have no personal interest or stake and preference should be given to the persons who have expertise in the relative commercial business. The learned Attorney General has stated that he would discuss these issues with the Secretary Railways and on the next date of hearing shall inform the reasons for non-issuance of the notification of the Railway Board.

4. The Secretary Railways Board further informed that out of available 494 locomotives 60% have already lived their lives, therefore, despite spending money on their repairs, no useful purpose can be obtained from the same. On the other hand Sheikh Rashid Ahmad has pointed out that majority of the engines are those, which have been parked for want of minor repairs, say like; in some of the cases on account of use of contaminated oil the crank shafts have been damaged and minimum expenditures for replacement of crank shaft is required and if this procedure is adopted, the Railways can rehabilitate a good number of their engines. We do not have technical expertise, however, we direct the Chairman that he should prepare a list of each locomotive, pointing out the defects and the plan for its rehabilitation alongwith approximate cost of each locomotive. This exercise should be completed within a period of ten days and copy of the same shall be sent to the Registrar as well as Sheikh Rashid Ahmad, Former Minister, Railways. The Registrar shall convene a meeting of Former Minister and representatives/engineers of HMC, HIT and

Risalpure as well as the Railway authorities and after taking their reaction, on the detail report on the proposed report, the Registrar shall submit his report on the issue for perusal of this Court before the next date of hearing.

5. We are informed by the Secretary Railways that as far Auditor General of Pakistan is concerned, it has no expertise for conducting forensic audit, therefore, with the permission of competent authority some private chartered accountant company of repute shall be involved subject to payment of the cost etc. to do the needful. Progress report in this behalf may be submitted on the next date of hearing. We expect that employees of the railways represented by the learned counsel shall also show their interest for the purpose of reactivating the Pakistan Railways as early as possible.

6. It is informed by the Mr. Ayaz Sadiq, MNA that immovable properties of the Railways Department, situated in different provinces has been encroached by different agencies including Defence, Rangers, FC and private persons. Detail report in this behalf be submitted to the Registrar of this Court within seven days, who shall forward the same to all the Chief Secretaries for ensuring that the property belonging to the Railways Department is handed over to them.

Let case be adjourned to a date in office after three weeks.

Chief Justice

Judge

Islamabad, the
30th