**IN HIGH COURT OF SINDH, KARACHI**

**C.P. No.D- 2697 OF 2024**

[Mohsin Ameer Chandio and 17 others Versus The Province of Sindh through Chief Secretary & others]

For hearing of CMA No 22819/2025

For hearing of CMA u/s 12(2) CPC

Before:

**Mr. Justice Muhammad Saleem Jessar**

**Mr. Justice Nisar Ahmed Bhanbhro**

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| Petitioners | |
| Mohsin Ameer Chandio & others | Through M/s Abdul Salam Memon & Ali Asadullah Bullo Advocates |
| Respondents | |
| Province of Sindh & others | Through M/s Hakim Ali Shaikh & Sagheer Ahmed Abassi Addl. A.G Sindh along with Mr. Ghulam Ali Birhmani Secretary (SGA & CD) and Mr. Sanaullah Qazi Section Officer (SGA & CD) |
| For Interveners | Through M/s Talha Abassi & Malik Waseem Iqbal Advocates |
| Date of hearing : | 21.05.2026 |
| Date of Order: | 24.06.2026 |

**Order**

**MUHAMMAD SALEEM JESSAR, J.**- This petition was disposed of vide order dated 17.03.2025. The Chief Secretary to Government of Sindh and Secretary to Government of Sindh, Services, General Administration & Coordination Department (SGA&CD) to decide Inter Se Seniority and Promotion Dates of Petitioners by complying with the Supreme Court judgment dated 30.12.2022 passed in the case of **Province of Sindh through Chief Secretary and others Vs. Ghulam Shabbir and others reported as 2023 SCMR 686** in particular directions contained in

paragraph number 14 and 15 of the judgment within 4 months from the date of order. As Petitioners claimed that Ghulam Shabbir and others were their batch mates and their cases were at par with them, therefore, they are also entitled for the same relief granted to Ghulam Shabbir and others.

2. It is the case of the Petitioners that Ghulam Shabbir Jiskani and Petitioners were appointed as Mukhtiarkars by the recommendation of SPSC on the same date. Ghulam Shabbir Jiskani and other colleagues of the Petitioners were granted benefit of promotion to next higher grade as Assistant Commissioners (ACs) from the date when vacancy to such posts occurred, but Petitioners were denied such relief. This denial affected the Seniority of Petitioners as during the intervening period SPSC recommended appointment of ACs through initial appointment on 11.02.2019. Before the appointment of ACs through initial appointment per petitioners 23 vacant positions of ACS under promotion quota from Mukhtiarkars were available but Petitioners were granted promotions afterwards without any fault on their part.

3. Before proceeding further, it will be conducive to reproduce para operative part of the judgment passed by Honorable Supreme Court in the case of **Province of Sindh through Chief Secretary and others Vs. Ghulam Shabbir and others reported as 2023 SCMR 686,** which reads as under:

> *6. Heard the arguments. The record reflects that vide Notification dated 23.05.2017 issued by the Chief Secretary, Sindh, the respondent employees were promoted from BPS-16 to BPS-17 in Ex- PCS cadre on acting charge with the approval of the competent authority with immediate effect taking into consideration the recommendations forwarded by the DPC. However, after the respondents had been performing their duties on acting charge basis for at least three years, a further notification was issued on 12.05.2020 by the Chief Secretary, Sindh whereby, on the recommendations of the DPC and with the approval of the competent authority i.e. Chief Minister, Sindh, the respondent employees were promoted to BPS-17 in the PMS on regular basis with immediate effect subject to the condition that the promotion shall be on probationary period of*

*one year and their confirmation shall be probationary period of one year and their confirmation shall be subject to successful completion of training and the required Departmental Examinations of Assistant Collector Part-I and Part-II, failing which they shall be deemed to have been reverted back to their former post and shall cease to be considered for further promotion in the PMS. A further condition was also imposed that the promoted employees would mandatorily be required to serve in each grade for not less than two years in Sindh Secretariat, two years in Education cadre and two years in field, failing which they will not be eligible for promotion to the next higher grade.*

*7. According to Rule 7 of the 1974 APT Rules, the appointments by promotion or transfer to the posts in Basic Pay Scales 1 and 2 are to be made by the appointing authority on merits, however in Sub-rule (2), it is explicitly provided that appointments by promotion or transfer to the posts in basic pay scales 3 to 18 without special pay, other than the posts for which the Provincial Selection Board ("PSB") has been constituted under Rule 6-A, shall be made on the recommendations of the appropriate DPC, whereas under the niceties of Rule 7-A, the appointing authority may approve the promotion of an officer from the date on which the recommendation of the PSB, or as the case may be, the DPC is made. The avenue or pathway for making the appointments on acting charge basis has been laid down in Rule 8-A of the 1974 APT Rules wherein certain eventualities and limbs are provided for appointment on acting charge basis which includes the consideration by the appointing authority in the public interest to fill a post reserved under the 1974 APT Rules for departmental promotion and if the most senior civil servant belonging to the cadre or service concerned, who is otherwise eligible for promotion, does not possess the specified length of service, the authority may appoint him to that post on acting charge basis. The first portion of Sub-rule (1) of Rule 8-A delineates the avenue of departmental promotion on acting charge basis, whereas Sub-rule (3) is germane to the posts of basic pay scales 17 and above reserved under the 1974 APT Rules to be filled by initial appointment. In the situation where the appointing authority is satisfied that no suitable*

*officer in which the post exists is available in that category to fill the post and if it is found expedient to fill the post, the appointing authority may appoint a person to that post on acting charge basis who is the most senior officer otherwise eligible for promotion in the organization, cadre or service, as the case may be, in excess of promotion quota. However, it is further clarified in the 1974 APT Rules that appointment on acting charge basis shall be made on the recommendations of the DPC or PSB I or II, as the case may be, with a further rider that acting charge appointment shall not amount to appointment by promotion on regular basis for any purpose including seniority and it shall not confer any vested right for regular promotion to the post or grade held on acting charge basis but, according to Sub-rule (9), the civil servant appointed on acting charge basis is entitled to draw fixed pay equal to the minimum pay on which his pay would have been fixed had he been appointed to that post on regular basis.*

*8. Indubitably, acting charge does not amount to an appointment by promotion on regular basis, nor does it confer any vested right for regular promotion to the post or grade held on acting charge basis. Here the bone of contention is altogether different in which the promotion was made on acting charge basis in the year 2017 but after three years the. incumbents were promoted on regular basis, which demonstrates that there was no case of withdrawal, or dissatisfactory service, or complaint, or any recommendation of the SPSC justifying the reversion from acting charge to the substantive post, rather the competent authority of its own volition and satisfaction regularized the promotion made on the basis of acting charge after three years on the recommendations of the DPC which means that, after verifying the dossier with regard to the performance and antecedents of the respondent-employees, the recommendations for regularizing the promotions were acted upon by the competent authority, and despite this the matter was yet again sent to the DPC for effecting regularization for recommendations after a timespan of three years which does not stand to reason. The respondents merely approached the learned Tribunal for directions to consider the regularization of their acting charge promotion from the date when they were initially*

*assigned the duties in BS-17 on acting charge basis rather than regularizing their promotion after three years with immediate effect, or else they should have been considered for the regularization of their acting charge promotion from the date when the posts had fallen vacant.*

*9. The impugned judgment of the Tribunal unequivocally reflects that the respondents in their individual service appeals entreated various prayers, but during the course of the arguments their learned counsel agreed to be confined only to the extent of prayer clause (a) which was, in a nutshell, the claim of promotion on regular basis from the date when the acting charge was assigned to them or from the date that when the posts had fallen vacant in the promotion quota. Our attention was also invited to the parawise comments which were filed before the learned Tribunal on behalf of the Province of Sindh and the Secretary Services, General Administration and Coordination Department, Government of Sindh in Service Appeal No. 508 of 2020 (Ghulam Shabbir v. Province of Sindh through Chief Secretary and others) wherein, in response to Ground (IV) of the memo of appeal, it was admitted that due to the promotion of officers from BPS-17 to BPS-18, twenty-eight (28) posts had fallen vacant in BPS-17 and nine (09) vacancies had fallen vacant due to the retirement of certain officers in BPS-17 during the period in which the appellant (respondents) were promoted on acting charge basis. The above reply unambiguously put on show that the posts were vacant in the promotion quota even at the time when the respondents were assigned acting charge on the recommendations of the DPC, but they were regularized after three years without reverting them to their substantive posts, which insinuates that they were eligible for promotion.*

*10. Consistent with Sub-rule (4) of Rule 8-A of the 1974 APT Rules, acting charge appointment can be made against posts which are likely to fall vacant for a period of six months or more and against vacancies occurring for less than six months, but it is somewhat conspicuous in the case of the present respondents that the acting charge continued for up to three years without any logical justification or rhyme or reason and at the end of the day the promotion was regularized without*

*any demur but with immediate effect which is a sticking point. No raison d'etre was presented by the learned AAG as to why the command of Sub-rule (4) of Rule 8-A of the 1974 APT Rules was not adhered to and why the acting charge was continued for such a long period in violation of the strict condition in the aforesaid rule despite the availability of vacant positions on which the promotion was regularized after a considerable period. The procedure and practice should be congruent and in harmony with the relevant rules without any unjustifiable departure. If assignment of duties on acting charge basis is allowed to be continued for an unlimited period of time then it amounts to deflecting and frustrating the very spirit of the rules. It is the obligation of the competent authority to decide the fate of an acting charge holder within the cutoff date fixed in the rules with all eventualities rather than allowing them to continue the acting charge for a long period and then one fine morning, according regularization of promotion to the acting charge holder and treating the service of the incumbent during acting charge non est. The respondent approached the learned Tribunal for directions under the semblance of the doctrine of legitimate expectation. To stretch or continue acting charge or ad hoc arrangement on own pay scale (OPS) for an extensive period rather than making timely appointments or filling the post by promotion according to the ratio or quota, as the case may be, creates misgivings and suspicions and such a tendency is highly destructive and deteriorative to the civil servant service structure. In the case of Uzma Manzoor and others v. Vice-Chancellor Khushal Khan Khattak University, Karak and others (2022 SCMR 694), this Court discussed the doctrine of legitimate expectation which connotes that a person may have a reasonable expectation of being treated in a certain way by administrative authorities owing to some uniforth practice or an explicit promise made by the concerned authority. In fact, a legitimate expectation ascends in consequence of a promise, assurance, practice or policy made, adopted or announced by or on behalf of government or a public authority. This doctrine is basically applied as a tool to watch over the actions of administrative authorities and in essence imposes obligations on all public authorities to act fair and square in all matters*

*encompassing legitimate expectation. As per Halsbury's Laws of England, Volume 1(1), 4th Edition, paragraph 81, at pages 151-152, it is prescribed that "A person may have a legitimate expectation of being treated in certain way by an administrative authority even though he has no legal right in private law to receive such treatment. The expectation may arise from a representation or promise made by the authority including an implied representation or from consistent past practice." In the case of R. v. Secretary of State of Transport Exporte Greater London Council ((1985) 3 ALL. ER 300), it is propounded that "Legitimate, or reasonable, expectation may arise from an express promise given on behalf of a public authority or from the existence of a regular practice which the claimant can reasonably expect to continue. The expectation may be based on some statement or undertaking by or on behalf of the public authority which has the duty of taking decision." Whereas in the judgment reported as Union of India v. Hindustan Development Corporation ((1993) 3 SCC 499), it was held that "The legitimacy of an expectation can be inferred only if it is founded on the sanction of law or custom or established procedure followed in regular and natural sequence. It is also distinguishable from a genuine expectation. Such expectation should be justifiably legitimate and protectable. Every such legitimate expectation does not by itself fructify into a right and therefore it does not amount to a right in the conventional sense."*

*11. In the case of Tariq Aziz-ud-Din and others (2011 PLC (C.S.) 1130), this Court held that all judicial, quasi-judicial and administrative authorities must exercise power in reasonable manner and also must ensure justice as per spirit of law and instruments regarding exercise of discretion. Obligation to act fairly on the part of administrative authority has been evolved to ensure rule of law and to prevent failure of justice. Object of good governance cannot be achieved by exercising discretionary powers unreasonably or arbitrarily and without application of mind. Such objective can be achieved by following rules of justness, fairness and openness in consonance with command of Constitution enshrined in different Articles including Articles 4 and 25 of the Constitution. Good*

*governance is largely dependent upon upright, honest and strong bureaucracy particularly in written Constitution wherein important role of implementation has been assigned to bureaucracy. Civil service is backbone of administration and purity of administration to a large extent depends upon purity of services. Such purity can be obtained only if promotions are made on merit in accordance with law and Constitution, without favoritism or nepotism.*

*12. The civil service is a communal expression for a segment of government put together predominantly for career bureaucrats recruited on merits. Wrongful selection of 'blue eyed boys' founded on nepotism, favoritism or other extraneous considerations or pressures lead to chaos and turmoil in the civil service structure and also incites unrest and discontent amongst the civil servants with long- term and serious repercussions, so in all fairness merit should be the dole criteria in the selection process which is an integral part of good governance. The scarcity of transparency, or affording preferential treatment to non-deserving candidates in the appointment process would amount to the slaughtering of merit and excellence. The appointment process should be straight-forward and transparent and only competent persons ought to be given way to serve rather than incompetent and unskillful persons. The menace of favoritism, nepotism and preferential treatment in the appointment process of civil servants is always inimical, pernicious and devastating.*

*13. In the case of Secretary to Government of the Punjab, Communication and Works Department, Lahore and others v. Muhammad Khalid Usmani and others (2016 SCMR 2125), this Court noted with concern that the device of officiating promotion, ad hoc promotion/appointment or temporary appointment etc. is used by Government Departments to keep civil servants under their influence by hanging the proverbial sword of Damocles over their heads (of promotion 'on officiating basis' liable to reversion). This is a constant source of insecurity, uncertainty and anxiety for the concerned civil servants for motives which are all too obvious. Such practices must be seriously discouraged and stopped in the interest of transparency, certainty and predictability, which are*

*hallmarks of a system of good governance. In the case of Dr. Naveeda Tufail and 72 others v. Government of Punjab and others (2003 SCMR 291) it was held that the concept of ad hoc appointments against the posts in public sector is a stopgap arrangement which is not the permanent character of the civil service. It was observed by this Court in Abdul Jabbar Memon and others (1996 SCMR 1349) that there can be no justification to keep the posts notionally vacant by making ad hoc appointments and keep the ad hoc employees hanging in the same situation for number of years with the understanding of their adjustment on permanent basis and ultimately they are informed that they are no more required. There can be no exception to the policy of law that the ad hoc appointments should be made only in exceptional circumstances in exigencies of service and should not be allowed to prolong beyond the period for which the appointment was made and keeping a person continuously as an ad hoc employee by extending his period of service, would definitely create a legitimate expectancy in his mind for regularization. The practice of occupying the posts through ad hoc appointments for a considerable period on one hand defeats the policy of law and on the other hand; with lapse of time the ad hoc employees as well as the persons seeking appointments on merits, are excluded from the process by loosing the required criteria for selection. In the case of Pakistan Railways through G.M., Lahore and another v. Zafarullah, Assistant Electrical Engineer and others (1997 SCMR 1730), it was held that the appointments on current or acting charge basis are contemplated under the instructions as well as the Rules for a short duration as a stop-gap arrangement in cases where the posts are to be filled by initial appointments. Therefore, continuance of such appointees for a number of years on current or acting charge basis is negation of the spirit of the instructions and the Rules. It is, therefore, desirable that where appointments on current or acting charge basis are necessary in the public interest, such appointments should not continue indefinitely and every effort should be made to fill posts through regular appointments in shortest possible time.*

*14. In fact, the learned Tribunal has not issued any directions for reckoning or regularizing the date of promotion on*

*acting charge basis with effect from any specific date but in all fairness, the directions were issued to the competent authority to consider the promotion with effect from the dates when vacancies in their quota became available with the net effect that matter was remanded to consider the effective date with proper application of mind and fine sense of judgment. On this specific point there are some judgments of local and foreign origin which are recapitulated as under:-*

*i. Dr. Muhammad Amjad and another v. Dr. Israr Ahmed and others (2010 SCMR 1466). The Court held that .... it was nobody's case that respondent was not eligible to be considered for promotion when substantive vacancy in the promotion quota was available and that being so, the impugned judgment directing the appellants to consider the case of respondent's promotion to the post of Associate Professor in BPS-19 w.e.f. the date when the vacancy in his quota was available is unexceptionable.*

*ii. Water and Power Development Authority through Chairman, Lahore and another v. Muhammad Nawaz Khan and another (1998 SCMR 640). It was observed whether the promotees could be considered and appointed on a promotion post not from the date of their selection or appointment or taking over of the appointment, but from the date when the vacancies occurred, the decision of the Supreme Court rendered inter parties is final and binding. There is no going back or questioning that decision. Hence the appellants cannot dispute the proposition. The only question that could be agitated is that the promotees were not eligible when the vacancies occurred and on being considered for promotion they could not be declared eligible for promotion. That, however, is not their case. The eligibility of the promotees for promotion on the date when the vacancies occurred for promotion quota has not been challenged up to now at any stage.*

*iii. Government of N.-W.F.P. and others v. Buner Khan and others (1985 SCMR 1158). The civil petitions were converted into appeals and allowed and while*

*modifying the directions of the Tribunal to promote the respondents substituted the directions that the promotees shall be considered for promotion to Grade-18, post with effect from the dates when vacancies in their quota became available and that thereafter a joint seniority list of the Officers directly recruited and those promoted shall be issued according to the rules.*

*iv. S. Abu Saeed v. Government of N.-W.F.P. through Secretary to the Government of N.-W.F.P, Education Department, Peshawar and another (1990 SCMR 1623). In this case also this Court directed that the promotees shall be considered for promotion with effect from the dates when vacancies in their quota became available and directions of the Tribunal to promote the respondents were modified accordingly.*

*v. B.S. Yadav v. State of Haryana, [1981] 1 SCR 1024. It was held that the promotees have to be confirmed in their quota if found fit and qualified and when vacancies arose in their quotas.*

*vi. A. Janardhana v. Union of India, [1983] 2 SCR 636 (at p.961). It was held that the seniority of the promotees was to count from the date of occurrence of vacancy in their quota.*

*vii. G.P. Doval v. Chief Secretary, Government of U.P., [1984] 4 SCC 329. It was held that subsequent appointment by the Public Service Commission to the temporary appointments will relate back to the initial dates or appointment for purpose of seniority on basis of rule of continuous officiation and the seniority could not be reckoned only from the date of approval or selection by the Commission.*

*viii. Narender Chadda v. Union of India, [1985] 2 SCC 157. It was held that promotees were first to be regularized from dates of occurrence of vacancies/eligibility. The initial appointment though not according to rules, the said service could not be ignored.*

*ix. A.N. Pathak v. Secretary to the Government, [1987] Suppl. SCC 763. It was held that the promotees*

*had to be inserted at places reserved for them as per quota.*

*x. Keshav Chandra Joshi v. Union of India, [1992] Suppl. 1 SCC 272. It was held that previous promotee would get regularization from date of occurrence of vacancy in promotion quota. Before that, it would be fortuitous. Of course, excess promotees could not claim seniority if the quota rule had not broken down because they occupy the seats of direct recruits.*

*xi. Rajbir Singh v. Union of India, AIR (1991) SC 518. It was held that the ad hoc promotion was in 1975 and the subsequent regularization was in 1986 and it was held that the period ad hoc service could be counted.*

*xii. A.N. Sehgal v. Raje Ram Sheoran, [1992] Suppl. 1 SCC 304. It was held that the promotees whose services were regularized could count their earlier service from the date of availability of a post within their quota but the earlier period between the starting point of ad hoc promotion and the date of occurrence of the vacancy could not be counted.*

*xiii. S.L Chopra v. State of Haryana, [1992] Suppl. (1) SCC 391. It was held that promotees service would count from date of availability of post within quota and service before that dates would be fortuitous.*

*xiv. Baleshwar Das v. State of U.P., [1981] 1 SCR 449. It was observed (at p.464) that officiating promotees are to be given dates by the Service Commission for counting seniority.*

*[Ref: Judgment of Supreme Court of India in the case of Suraj Parkash Gupta and others v. State of J & K and others, dated 28 April, 2000 in Appeal (Civil) 3034 of 2000).*

*15. The law laid down in the aforesaid foreign and local dicta reveals that the promotion cases of the candidates holding acting charge under the recommendations of the DPC may be considered by the competent authority, with their fine sense of judgment and proper application of mind from the date when the posts in the promotion quota had fallen vacant, hence the directions given by the Tribunal cannot be considered illegal*

*or in excess of jurisdiction whereby the matter was barely remanded to the competent authority for consideration and decision.*

*16. In view of the above discussion, we do not find any illegality or perversity in the impugned judgment passed by the learned Service Tribunal. Consequently, the aforesaid civil appeals are dismissed.*

4. By above pronouncement, Honorable Supreme Court held that a civil servant was entitled to promotion from the date when vacancy for the said post occurs. This principle was followed in the case of **ASAD HUSSAIN Versus The CONTROLLER GENERAL OF ACCOUNTS FEDERAL CO-OPERATIVE BUILDING, SECTOR G-5/2, ISLAMABAD and another reported as 2025 S C M R 1515** wherein Honorable Supreme Court of Pakistan has been pleased to hold that:

*7. It is also a well-established principle, both in local and foreign jurisprudence, that a civil servant's promotion must be considered from the date a vacancy in their quota becomes available, provided they are otherwise eligible at that time.[3] The competent authorities must apply their mind judiciously and cannot delay promotion on administrative pretexts once a substantive vacancy arises.[4] In the instant case, the post of Private Secretary (BS-17) fell vacant on 06.08.2015. The petitioner, being the senior-most eligible officer at that time, was entitled to be considered for promotion with effect from that date. The delay caused by the department in convening the DPC or in processing the petitioner's case due to procedural irregularities such as issues with the author of his PERs cannot be used to defeat his rightful claim. The competent authority was under a duty to act with a fine sense of judgment, which it failed to do. The moment the post became vacant and the petitioner met the required qualifications, a legitimate expectation arose in his favour that he would be considered for promotion in a fair and timely manner.[5] The failure to fulfil this expectation, without lawful justification, amounted to arbitrariness and procedural unfairness.*

*8. The delay in the petitioner's promotion, therefore, stems not from personal shortcoming but from systemic inefficiencies and administrative neglect. It is a firmly*

*entrenched principle that a civil servant must not bear the consequences of internal procedural lapses.*[6] *Accountability lies with the department, not the employee, for ensuring timely and lawful processing of promotion cases. The arbitrary delay in the petitioner's promotion also raises concerns under Articles 4 and 25 of the Constitution of the Islamic Republic of Pakistan, 1973, which guarantee the right to be treated in accordance with law and equality before the law. Denying the petitioner timely promotion while others with comparable or lesser credentials advanced through the same system reflects unequal treatment. Administrative discretion, if exercised unequally or irrationally, becomes discriminatory in effect.*

**5.** Yet in another case of **NAEEM KHAN NIAZI and others Versus FEDERATION OF PAKISTAN through Secretary, Ministry of Interior, Government of Pakistan, Islamabad and another reported as P L D 2026 Supreme Court 64** Honorable Supreme Court of Pakistan depreciated the practice of delay in holding DPCs to promote the officers and held that**:**

*7. It is a well-settled principle, recognized in our jurisprudence and consistently affirmed in comparative public law, that a civil servant's claim to promotion crystallises the moment a vacancy within their quota arises,provided they meet the prescribed eligibility criteria. At that stage, a corresponding duty is cast upon the competent authority to consider the officer's case fairly and in good time. Administrative indecision, internal disputes, or managerial laxity cannot be pleaded as excuses to defer the process once a substantive vacancy exists. The failure to act amounts to arbitrariness and undermines the doctrine of legitimate expectation, which demands that civil servants be treated in accordance with established norms of fairness and predictability.*

*8. Petitioner has relied on the phrase "unjustified delays" in the afore-cited judgment to argue that the delay was due to the grant of stay orders by the Court, hence it was no fault of the department. It is a settled principle of service jurisprudence that when a vacancy arises it must be filled without unjustified delay, for timely consideration is an essential incident of service*

*and an element of fair treatment under Articles 4 and 25 of the Constitution. The delay in the present case cannot be regarded as justified. It was occasioned by litigation arising out of irregularities in the seniority list prepared by the Department itself, which litigation was ultimately decided against the Department. The stay orders, therefore, were a direct consequence of the Department's own flawed exercise and not of any conduct attributable to the petitioners. To describe such delay as "justified" would, in effect, permit the administration to take advantage of its own wrong and visit innocent officers with the adverse consequences of disputes in which they had no role. This would be wholly inequitable and inconsistent with the doctrine of legitimate expectation, which entitles civil servants to be considered for promotion as soon as vacancies arise.*

*9. Delay must always be assessed through a civil servant-centric lens: Was the officer in any way responsible for the obstruction? If not, the protection of his rights cannot be made contingent upon protracted departmental disputes or collateral litigation. In this case, the petitioners were blameless, and the delay-spanning over two years-was excessive by any standard of reasonableness. To accept the Department's argument would mean that even if such litigation dragged on for a decade or more, eligible officers would be deprived of promotion until the very end of their careers, thereby reducing the constitutional guarantee of fair consideration to a mere formality. Such an outcome cannot be countenanced. The fair and lawful course, therefore, is to reckon the petitioners' promotion from the date the vacancies first arose in August 2015, notwithstanding the intervening delay.*

6. Though the Petitioners were not party in Ghulam Shabbir case (supra); however, were entitled for the same relief in the light of the pronouncement of Honorable Supreme Court of Pakistan in the case of **HAMEED AKHTAR NIAZI versus THE SECRETARY, ESTABLISHMENT DIVISION, GOVERNMENT OF PAKISTAN and others reported as 1996 S C M R 1185** wherein Honorable

Supreme Court of Pakistan was pleased to hold that if the Tribunal or Court decides a point of law relating to the terms of service of a civil servant which covers not only the case of the civil servant who litigated, but also of other civil servants, who may have not taken any legal proceedings; in such a case, the dictates of justice and rule of good governance demand that the benefit of the above judgment be extended to other civil servants, who may not be parties to the above litigation instead of compelling them to approach the Tribunal or any other legal forum.

7. Petitioners filed representations but remained unheeded, therefore filed petition, which was disposed of with directions to decide the case of Petitioners in line with directions contained under Ghulam Shabbir Case (Supra). The Respondents/ alleged contemnors did not comply with the directions contained in order dated 17.03.2025. The Petitioners therefore maintained CMA No 22819/2025 seeking implementation of order.

8. On notices, Secretary SGA & CD Government of Sindh filed compliance report on 23.01.2026 and stated that order passed by this Court has been complied with in its letter and spirit and pressed for disposal of the instant CMA. Learned Counsel for the Petitioners vehemently objected upon the report and contended that report was nothing but an eyewash to defeat the orders passed by this Court and Honorable Supreme Court.

9. Petitioners contended that since Petitioners and Ghulam Shabbir Jiskani were appointed as Mukhtiarkars (BS -16) through Sindh Public Service Commission (SPSC) on same date in year 2011, however were placed on different seniority numbers as per merit list issued by SPSC, their case stood at par to the case of Ghulam Shabbir Jiskani. Petitioners claimed the benefit of judgment passed by Honorable Supreme Court declaring that the promotion cases of the candidates may be considered by the competent authority, with their fine sense of judgment and proper application of mind from the date when the posts in the promotion quota had fallen vacant.

10. Learned Counsel for the Petitioners contended that through the erstwhile pronouncement in Ghulam Shabbir case (Supra) Honorable

Supreme Court held that promotion of a civil servant be considered and recommended by DPC from the date when seat in the promotion quota had fallen vacant. Petitioners claimed that 16 seats in grade 17 under promotion quota were available as on 22.01.2019 but instead of holding DPC, requisition was sent to SPSC for appointment of Assistant Commissioners through initial appointment. SPSC conducted recruitment process and recommended 191 candidates for appointment as Assistant Commissioners in year 2020 and 2021. The Promotion of the Petitioners was withheld malafidely and done in year 2023.

11. Looking at the anxiety of the Petitioners, Secretary Services was directed to furnish a fresh report regarding the vacancy position on the relevant dates and decide the seniority issue of the Petitioners. On 11.02.2026 when case was taken up Secretary Services apprised the Court that not a single seat was available under promotion quota at the time of induction of Assistant Commissioner through initial appointments. He further stated that representation on the same issue filed by the Petitioners before Chief Secretary Sindh was declined and now the appeal was pending adjudication before worthy Chief Minister Sindh. This Court vide orders dated 11.02.2026 directed the Principal Secretary to Chief Minister Sindh to submit report regarding the fate of appeal of petitioners and matter was adjourned to 17.02.2026.

12. Mr. Malik Naeem Iqbal filed an application under section 12(2) C.P.C. on behalf of Assistant Commissioners apprehending an effect on their seniority, and sought reversal of this Court's order dated 17.03.2025. Notice of the application was given to the Petitioners who filed counter affidavit to the application under section 12(2) C.P.C.

13. On 11.03.2026 Secretary Services appeared in the Court and filed order dated 10.03.2026 passed by worthy Chief Minister Sindh on the appeal of Petitioners. From perusal of order it transpired that Chief Minister Sindh directed Services and General Administration Department to re-verify the vacancy position as well as eligibility of the Petitioners for their promotion during the period in question. The order of Chief Minister however confirmed that in year 2019 there were 22 vacancy positions of Assistant Commissioners available against promotion quota. When confronted to such situation regarding

availability of vacant posts under promotion quota, the Secretary services again sought time for compliance.

14. On 15.04.2026 Secretary Services submitted its compliance report, which reflected that vacancy against the promotion Quota for ACs occurred in year 2022/2023, therefore, DPC was held on 10.08.2023 and eligible Mukhtiarkars were promoted as Assistant Commissioners. The report was seriously disputed by the Petitioners, therefore, by consent of the Petitioners and Secretary Services a Committee headed by Mr Khalid Hyder Shah Senior Member Board of Revenue, Mr. Bilal Ahmed Memon Chairman CMIT and Mr Noor Ahmed Samoo Secretary Training Wing Government of Sindh was constituted to examine the case of Petitioners and furnish its report.

15. The committee convened meetings, perused record and found various anomalies at the end of SGA&CD in the promotion matters. Report was filed before this Court on 06.05.2026. Committee made recommendations in para 17 of the report in the following manner:

> ***17. Pragmatic approach****: In view of the administrative anomalies as at para 16(a-e) and complications of either of the scenario discussed, the committee unanimously resolved to suggest a pragmatic approach for services wing of SGA&CD to consider as follows:*
>
> *a. The Committee did not find merit in services wing of SGA&CD's approach to deduct Education Management Cader (EMC) and CMO seats retrospectively and did not allow the same benefit to the instant petitioners which were given to the previous batches upto 2022. Services Wing of SGA & CD to consider those seats deemed occurred for the calculation of vacancies;*
>
> *b. Partial Batch (M/S Shabbir Jiskani & others) of the instant petitioners were inter-Se-seniority for the period when their promotion was on acting charge basis. This relief has created an anomaly, which made some of the batch mates (instant petitioners) and direct ACs (2019 batch of Mukhtiarkars) at a visible disadvantage. The Committee suggests for revisiting Notification No SOV(SGA&CD)9-6/2018 (Pt.file-II) dated 12.06.2023 and*

*the same is required to be placed before DPC (competent forum) to discuss threadbare in accordance with the Supreme Court's Judgment dated 30.12.2022 (Civil Appeals No 52-K to 71-K of 2022 against the judgment dated 03.12.2021 passed by the Sindh Service Tribunal at Karachi in appeals No. 508 to 526 of 2020 and appeal No. 08 of 2021) taking into account all the vacant posts at that point in time as mentioned in para 5 of this report by dovetailing this present CPLA before this Honorable Constitutional Bench. This Committee humbly submits for convening special DPC for considering such cases keeping in view all available vacancies and considering the legal rights of all the parties (Promotee Mukhtiarkars, Direct Mukhtiarkars, Direct Batch of Ex-PCS & PMS Batches) contingent upon all the outcomes of above mentioned orders of Honorable Courts.*

*c. Besides Services wing of SGA&CD needs to review the re-assignment of seniority of 2017 to the promotee Mukhtiarkars (junior to the instant petitioners) as per the re-casted seniority of 2021. though services wing of SGA&CD maintains that the promotee Mukhtiarkars are junior to the instant petitioners in the January 2026 Seniority List, yet ambiguous remarks in promotee Mukhtiarkars effective date of Seniority creates misconception. This needs rectification; and*

*d. The committee observes and humbly submits that all the reliefs given and proposed approach herein, is strictly subject to any final outcome of the pending litigation in the superior courts/ Tribunals. Subject to the pending reserved decisions, the promotions and seniority claims might have to be re-casted again having implications for all the PMS / Ex-PCS officers.*

16. Perusal of Committee's report reflected a gloomy picture of bad governance within services wing of SGA&CD. Services Department being custodian of all the employees is required to safeguard the interest of each employee working under any set up in civil service of Government of Sindh. Though the report of the Committee was sufficient to initiate contempt proceedings against alleged contemnors but the Court while taking a lenient view vide its order dated 06.05.2026 directed the Secretary Services to present fresh report regarding the vacancy position available at the time of induction of

Assistant Commissioners through initial appointment viz. On or before 11.02.2019.

17. From surfacing of record it reflected that pursuant to recommendation of SPSC Assistant Commissioners were appointed by Government of Sindh on 11.02.2019. This Court in its order dated 06.05.2026 directed Respondents to furnish details of vacancies against promotion quota. On 21.05.2026 when matter was again taken up Secretary Services submitted its report that at the time of induction of ACs through initial appointment 8.71 posts were available under promotion quota. Court was surprised rather shocked to see such report, as the SGA&CD during hearing of appeal of Petitioners before Chief Minister Sindh stated that 22 seats under promotion quota were available and all of sudden these seats reduced to about 9.

18. It reflects from the compliance report dated 14.04.2026 submitted by Secretary Services that until 22.01.2019 sixteen posts of ACs against promotion quota were available and until 25.11.2019 this number increased to 23. For the sake of convenience para 1(iii) of the compliance report dated 14.04.2026 is reproduced below:

> iii. *During aforesaid tenure i.e from the date of DPC held on 15.04.2017 to 16.01.2020 following vacancies were occurred due to promotion from BS -17 to BS - 18, retirement and death of ex-PCS (BS-17) officers; the promotion vacancies were filled by making promotions of Mukhtiarkars as stated above:*
>
> *(A) Promotion Quota*

| *Sr. No* | *Name of Officer* | *Date of Promotion/ Retirement/ Expiry* |
|---|---|---|
| *1* | *Mansoor Ahmed Ansari* | *22.05.2017 (P)* |
| *2* | *Tahir Ali Memon* | *19.10.2017 (P)* |
| *3.* | *Zulfiqar Ali Daudpota* | *19.10.2017 (P)* |
| *4.* | *Abdul Qadir Soomro* | *19.10.2017 (P)* |
| *5.* | *Muhammad Hajjan Ujjan* | *19.10.2017 (P)* |
| *6.* | *Irshad Ali Shaikh* | *19.10.2017 (P)* |
| *7.* | *Syed Asif Raza Shah* | *16.11.2017 (P)* |
| *8.* | *Masood Ahmed Bughio* | *11.01.2018 ( E)* |
| *9.* | *Ghulam Ali Leghari* | *28.02.2018 ( R)* |
| *10.* | *Muhammad Ibrahim Samoo* | *02.03.2018 ( R)* |

| | | |
|---|---|---|
| *11.* | *Raza Muhammad Ganbhir* | *30.09.2018 (R)* |
| *12.* | *Ghulam Siddiq Soomro* | *31.10.2018 (R )* |
| *13.* | *Syed Arshad Waris (N)* | *22.01.2019 (P)* |
| *14.* | *Waseemuddin (N)* | *22.01.2019 (P)* |
| *15.* | *Maqsood Hussain Ghumro (N)* | *22.01.2019 (P)* |
| *16* | *Shaikh Muhammad Rafiq (N)* | *22.01.2019 (P)* |
| *17* | *Lal Dino Mangi* | *16.07.2019 (P)* |
| *18* | *Muhammad Hanif Pitafi* | *24.07.2019 (P)* |
| *19* | *Salamat Ali Memon* | *17.07.2019 (P)* |
| *20* | *Ali Muhammad Shah* | *20.07.2019 (R)* |
| *21* | *Imam Bux Kaka* | *13.09.2019 (P)* |
| *22* | *Nazeer Ahmed Soomro (N)* | *02.10.2019 (R )* |
| *23* | *Fida Hussain Shoro* | *25.11.2019 (R )* |

19. From perusal of above report, it is crystal clear that until 22.01.2019 sixteen seats of Assistant Commissioners fell vacant under promotion quota and DPC was not held to consider the promotion of Petitioners. In the meanwhile SPSC made recommendations for appointment of ACs through initial appointment dated 11.02.2019, which badly affected the promotion prospects of petitioners.

20. In this case, it is ought to be reminded that while a civil servant does not have a vested right to promotion, he or she certainly has an enforceable right to be considered for promotion in accordance with law. This right also finds its ideological roots in the Constitution of the Islamic Republic of Pakistan, 1973 ("Constitution"). Article 9 of the Constitution guarantees the right to life, which, through consistent judicial interpretation, has evolved beyond mere animal existence to encompass the right to live with dignity and purpose. Integral to this dignified existence is the right to livelihood, a concept that extends mere employment to include the genuine opportunity for growth, progress, and advancement in one's career in accordance with law and adopted as principles of policy under article 38 of the Constitution. The right to a dignified livelihood transcends the mere possession of a job; it includes the essential opportunity for professional advancement and rise in one's career on basis of merit, experience, and adherence to established criteria. A livelihood stripped of progression, stagnated by arbitrary or opaque service practices, renders the constitutional guarantee hollow

and illusory. It is thus axiomatic that fair, transparent, and merit-based consideration for promotion forms an essential facet of the right to livelihood, and thus, of the right to life itself. Further, where a civil servant meets the prescribed qualifications and conditions for promotion, the lawful and transparent consideration of their case creates a legitimate expectation that such progression will materialize, unless cogent reasons to the contrary exist. Denial or indefinite deferral of such consideration, particularly when based on arbitrary, opaque, or shifting grounds violates this expectation and reduces constitutional guarantees to mere rhetoric. It too denies the right of a person to be dealt with in accordance with law as articulated under article 4 of the Constitution.

21. It is not out of place to reiterate and underscore that the civil bureaucracy is meant to be the steel frame of the State, not the rubber stamp. The civil bureaucracy serves as the backbone of the State, entrusted with ensuring continuity, stability, and efficiency in governance. The civil service provides the institutional memory and administrative steadiness required for uninterrupted government functioning. It plays a vital role in implementing policies, delivering services, and upholding the institutional framework of the State. A fundamental characteristic of an effective civil service is impartiality and meritocracy. In order to perform this role effectively, the civil service must remain free from any interference. It's independence, integrity, and intellectual honesty are essential to sustaining the rule of law and the constitution. Its allegiance lies with the Constitution and the law. The civil servants should not be penalized for any extraneous considerations, as has been done in the case of Petitioners. Only a professional, merit-based, and discrimination free civil service can sustain the rational-legal authority of a modern constitutional State.

22. The process of the promotion, cannot be halted without any plausible reasons. The moment a vacancy occurs for appointment by way of promotion, the deserving civil servant must get promotion to the said post without any wastage of time. If done so, it will comply to the foundational concept of law that a right must go to the person to whom it belongs in an unfettered way.

23. We note with dismay that until 22.01.2019 there were 16 vacant posts of ACs, which were to be filled by promotion from amongst Mukhtiarkars and by the end of year 2019 this number rose to 23. But for unknown reasons DPC was not held which resulted not only injustice to Petitioners but also to those who were preparing to join civil service through competitive process. Had these vacancies been filled by promotion as soon as vacancy fell vacant, then 16 positions of Mukhtiarkars would have been available for induction by fresh blood. Public sector employment in Pakistan is a significant source of financial stability for many households. Prolonged vacancies not only limit their employment opportunities but also diminish public confidence in government institutions. "Post" denotes the number of posts in the cadre, whether filled or vacant. "Vacancy" means a vacant post available for appointment, through recruitment / promotion, on the creation of new post(s) or retirement, death or resignation or removal of the incumbent working on the post. In public administration, every post in the organizational hierarchy is created after due deliberations and approval, taking into account the functional requirements of the department, the workload, and the efficient delivery of services to the public. This process ensures that each sanctioned post is essential for the functioning of public institutions. In other words, each sanctioned post reflects a deliberate recognition of a need - whether technical, supervisory, operational, or strategic - within the framework of good governance. Importantly, financial allocations are also secured through budgetary processes to ensure that post is funded and resourced. The practice of routinely leaving posts in public institutions unfilled undermines the very rationale of sanctioned strength. If a post is not needed, it should be abolished through proper procedure; but if it has been duly approved and budgeted, it must be filled without undue delay.

24. It is not advisable to keep a post in civil service vacant for an elongated period of time as it hampers the functioning of public institutions and is not conducive to the maintenance of efficiency of administration. The objective of timely promotions of eligible employees in various public institutions can be achieved only by convening of meetings of DPCs timely. The timely filling of vacant posts is not only an administrative imperative but is essential for

maintaining the integrity, efficiency, and responsiveness of public institutions.

25. It is settled principle of public administration that every sanctioned post exists to serve a particular functional need of the State, and must be filled within a reasonable time after falling vacant. Unless a post has been lawfully abolished, frozen pursuant to a demonstrable policy of fiscal constraint, or withheld due to overriding and transparent public exigencies, the administration is bound to proceed with filling it. Vacancies left unaddressed foster ad-hocism, informal delegation, and opacity, which in turn open the door to nepotism and favouritism. Such practices not only corrode the principles of merit and transparency but also offend the guarantees of equality before law and equal protection of law under Articles 4 and 25, as well as the constitutional injunction of Article 27 that no citizen shall be discriminated against in appointments to the service of Pakistan. Nepotism and favouritism strikes at the heart of constitutional morality, they transform public office from a position of trust into a tool of patronage, thereby weakening institutional integrity and eroding public confidence in the fairness of the system.

26. Public institutions are not the private preserves of those who manage them, but repositories of public trust. Their strength lies in the timely and transparent deployment of sanctioned human resources. Failure to fill vacancies without lawful justification not only diminishes institutional performance but also undermines the confidence of civil servants and the public alike. A vacancy is not an empty formality; it represents the people's need for service, which the State is constitutionally bound to meet. Unjustified delays in this regard not only disrupt the efficient functioning of the institution but also weaken its service delivery capacity. Vacancies, when left unattended, often lead to informal arrangements and ad hoc delegations of authority that foster opacity, enable nepotism, and corrode the principles of merit and transparency. Public institutions must operate at their optimal level, with all sanctioned posts filled in a timely and lawful manner. The performance and credibility of any department is directly correlated with the adequacy of its human resources. Timely recruitment is thus not merely an administrative formality but a requirement grounded in

the larger public interest. Government officers, as trustees of the public good, must discharge their duties in a manner that upholds this trust.

27. The arbitrary obstruction, unwarranted delay, capricious interference, unjustified hindrance, manipulation or undue delay in the career progression of a civil servant erode the independence and morale of the civil bureaucracy, transforming it into an instrument of political patronage, a phenomenon that is antithetical to the ethos of constitutional democracy and democratic governance. Such interference fosters networks of favoritism and erodes the impartiality and credibility of the civil service. It is therefore, imperative that service laws must, therefore, be transparent, predictable, and uniformly applied, to ensure equal treatment. Purity of service can be obtained only if promotions are made on merit without favouritism or nepotism.

28. In the case of Petitioners at least 16 positions of ACs were available to be filled by way of promotion as of 22.01.2019 but promotions could not be awarded for want of DPC, though some of the batch mates of Petitioners were accordingly promoted. We while recording our dismay with the Services wing of SGA&CD for filing misleading reports before the Court, which in our view were sufficient to proceed against Secretary Services under article 204 of the Constitution and while observing reasonable restraint hold that the 16 Mukhtiarkars out of the petitioners batch were entitled for promotion to the post of Assistant Commissioner by 22.01.2019 under the order of merit which was unjustifiably withheld due to reasons entirely attributable to internal administrative mismanagement. The mala fides of Services Department itself spoke that for considerable period of time they played with process of Court and filed misguiding reports, and committee constituted by the Court also shown its displeasure with the affairs of services wing of SGA&CD.

29. While holding that the Secretary Services has deliberately defied the Court orders and avoided to implement the same, which is a clear contempt of Court's orders, however at the request of Learned Additional Advocate General and assurance that the orders would be implemented in its letter and spirit, we do not proceed against the contemnors under article 204 of the Constitution .

30. For the foregoing reasons a case for indulgence of this Court is made out. Accordingly the instant CMA is disposed of. The Respondents / contemnors are directed to modify the promotion orders of Petitioners and to promote them from the date of occurrence of vacancies as mentioned in table set forth at para 16 herein above and award them benefits accrued therefor accordingly. The inter se seniority consequently shall be recasted and prepared afresh and in future the promotions shall be made strictly in accordance with law and guidance rendered in the pronouncements of Honorable Supreme Court in the case of Asad Hussain and Naeem Khan Niazi (Supra).

31. An application under section 12(2) CPC filed by interveners being misconceived is hereby dismissed.

32. The above exercise shall be completed within a period of thirty days from the date of this order. Failure to comply with the directions will invite penal consequences enumerated under article 204 of the Constitution.

Office is directed to Communicate copy of this order to Respondents for compliance. Learned MIT - II to ensure compliance.

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J U D G E

HEAD OF CONST: BENCHES

J U D G E

Approved for reporting