

ORDER SHEET

IN THE HIGH COURT OF SINDH, KARACHI  
C.P. No.D-556 of 2026  
(Sarang & others v *Province of Sindh & others*)

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Date Order with signature of Judge

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Before:-

Mr. Justice Adnan-ul-Karim Memon  
Mr. Justice Zulfiqar Ali Sangi

Date of hearing and order:- 16.02.2026

M/s. Ali Asadulah Bullo advocate for the petitioners.  
Mr. Arshad Khan Tanoli advocate for the Respondent  
Mr. Abdul Jalil Zubedi, AAG.

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**ORDER**

**Adnan-ul-Karim Memon, J.** – The petitioners have filed the captioned Constitutional Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, with the following prayer: -

- a) *Declare the impugned letter dated 12.01.2026 regarding convening of meeting of departmental promotion committee regarding the posts of Executive Engineers BS-18 as illegal, violative of rule 10 of Sindh Civil Servants (Probation, Confirmation & Seniority Rules), 1973, and set aside to the extent of Respondents No. 4 to 9;*
- b) *Declare the proceedings of the departmental promotion committee for the post of Executive Engineers convened on the basis of the disputed seniority list of 02.01.2026 as illegal and quash the same;*
- c) *Direct and restrain the Respondents from convening the meeting of the departmental promotion committee before the statutory period of 90 days of appeal and decide the same in accordance with law;*
- d) *Restrain the Respondents from taking any coercive action against the petitioner, and should conduct themselves strictly in accordance with the law.*

2. The case of the Petitioners is that they were appointed as Assistant Engineers (BS-17) through direct recruitment on the recommendation of the Sindh Public Service Commission in November 2018. Their names were initially omitted from the seniority list issued in 2019, against which they preferred departmental appeals before the Chief Secretary, Government of Sindh. The said appeals were allowed in September 2025 with a direction to place the Petitioners above Respondents No.4 to 9 in accordance with their date of regular induction. Pursuant thereto, a provisional seniority list dated 19.09.2025 was issued reflecting their correct placement. However, Respondent No.2 subsequently issued a final seniority list dated 02.01.2026 in disregard of the appellate order, placing private Respondents above the Petitioners without lawful justification and in violation of Rule 10 of the Sindh

Civil Servants (Probation, Confirmation & Seniority) Rules, 1975. It is urged that such an act on the part of the Respondents not only defeats the vested rights of the Petitioners accrued based on their regular induction through direct recruitment upon the recommendation of the Sindh Public Service Commission, but also amounts to non-compliance and nullification of a binding appellate order passed by the competent forum, which cannot be sustained in the eyes of law. It is, therefore, prayed that this Court to declare the final seniority list dated 02.01.2026, to the extent it adversely affects the seniority of the Petitioners, as illegal, unlawful and without jurisdiction; direct the Respondents to implement the appellate order in its true letter and spirit; and consequently restore the seniority of the Petitioners in accordance with their date of regular appointment by placing them above Respondents No.4 to 9, in the interest of justice, equity and fair play.

3. It is contended by the counsel for the petitioner that during pendency of the Petitioners' departmental appeal against the said final seniority list, the Respondents convened a meeting of the Departmental Promotion Committee (DPC) for promotion to the post of Executive Engineer (BS-18) based on the disputed seniority list, which action is malafide, arbitrary, and without lawful authority, thereby necessitating interference by this Court. He prayed to allow this petition.

4. Conversely, learned AAG assisted by the counsel for Respondents No.4 to 9 raised a preliminary objection to the maintainability of the instant petition under Article 199 of the Constitution, contending that the dispute pertains to fixation of seniority, which squarely falls within the terms and conditions of service of civil servants and is exclusively triable by the Service Tribunal in view of Article 212 of the Constitution. Reliance was placed upon the judgment of the Supreme Court of Pakistan in *Khalilullah Kakar v. Provincial Police Officer, Balochistan* (2021 SCMR 1168) as well as *Ali Azhar Khan Baloch v. Province of Sindh* (2015 SCMR 456) to contend that even allegations of mala fide relating to seniority cannot confer constitutional jurisdiction upon this Court where an adequate statutory remedy is available.

5. On merits, it was submitted that the private Respondents were initially appointed as Sub-Engineers and subsequently promoted as Assistant Engineers against their prescribed quota upon availability of vacancies in May 2017. However, due to administrative oversight, their promotions were not regularized from the date of occurrence of vacancies; however, upon consideration of their objections to the provisional seniority list dated 19.09.2025, the competent authority assigned them seniority with effect from 26.05.2017 and thereafter issued the final seniority list dated 02.01.2026 in accordance with law. It was therefore contended that the Petitioners, having been appointed in November 2018, are junior to the promotee

officers and cannot claim seniority over them, rendering the instant petition misconceived and liable to dismissal.

6. We have heard the learned counsel for the parties and perused the record with their assistance.

7. The preliminary objection raised by Respondents No.4 to 9 regarding maintainability under Article 199 of the Constitution is well-founded. It is settled law that disputes relating to the fixation of seniority of civil servants fall within the service matters exclusively triable by the Service Tribunal under Article 212 of the Constitution of Pakistan.

8. The Supreme Court in *Khalilullah Kakar v. Provincial Police Officer, Balochistan* (2021 SCMR 1168) held that even allegations of mala fide action in seniority matters do not confer jurisdiction on a High Court where a statutory remedy exists, i.e., recourse to the Service Tribunal. Similarly, in *Ali Azhar Khan Baloch v. Province of Sindh* (2015 SCMR 456), it was affirmed that seniority disputes, including claims of wrongful placement, are to be adjudicated by the competent statutory forum, not through constitutional writs, unless there is a complete absence of an alternative remedy.

9. Seniority in civil service is generally reckoned from the date of regular appointment or promotion, not from provisional or ad hoc service, unless rules expressly allow retrospective seniority. It is well established that where a vacancy existed, and an eligible promotee was delayed in promotion due to administrative oversight, such delay cannot prejudice the officer's seniority. The Supreme Court has consistently held that promotions must be backdated to the date when the post originally fell vacant if the delay arose from administrative inaction without lawful justification. Affected officers have a legitimate expectation of pro forma promotion with all consequential benefits, including seniority, in line with the principles of equality and avoidance of arbitrariness under Articles 4 and 25 of the Constitution of Pakistan.

10. In disputes between promotees and direct recruits, the general maxim applies that "he who is appointed earlier shall rank senior, subject to rules." Thus, a properly regularised promotee, whose seniority is fixed from an earlier date, will rank senior to a later appointee.

11. In the present case, the private respondents were promoted from Sub-Engineers to Assistant Engineers on seniority-cum-fitness basis in May 2017. However, it is urged that due to oversight, their promotions were not initially regularised. On objection in 2025, the Competent Authority fixed their seniority

retrospectively from 26.05.2017 and issued the final seniority list on 02.01.2026, while the petitioners were appointed in November 2018. It is also urged that since the vacancies existed in May 2017, the promotees were eligible, and statutory rules allow seniority backdating, they are rightly senior to the petitioners. Therefore, it is the case of the private respondents that the retrospective fixation of seniority of the promotees from 26.05.2017 is valid, as the petitioners, who were appointed later in November 2018, could claim seniority over them. However, the question of seniority shall be examined by the Sindh Service Tribunal if approached by the aggrieved party. Any observations made at this stage are tentative and shall not prejudice the rights or case of either party.

12. The principle is that the High Court cannot interfere in internal departmental adjustments where a statutory forum, the Service Tribunal, exists. Actions of the Departmental Promotion Committee based on the final seniority list cannot be deemed malafide, at this stage, as the list reflects corrected seniority under Rule 10 of the Sindh Civil Servants (Probation, Confirmation & Seniority) Rules, 1975. However, the final determination of seniority remains subject to the Tribunal's decision. The DPC's actions based on the final seniority list are not subject to High Court interference, due to the aforesaid reasons, besides the seniority disputes are inherently service matters, and the High Court's writ jurisdiction is not a substitute for statutory remedies.

13. In view of the above, the petition is not maintainable under Article 199 of the Constitution.

14. In light of the foregoing, the instant petition challenging the seniority list dated 02.01.2026 is dismissed on the grounds of maintainability. The Petitioners, if so advised, are to seek any grievance regarding seniority before the competent Service Tribunal as provided under Article 212 of the Constitution. However, with no order as to costs.

JUDGE

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