

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
LARKANA**

Constitution Petition No.D-397 of 2026

**Before;
Mr. Justice Riazat Ali Sahar;
*Mr. Justice Ali Haider ‘Ada’.***

Petitioner : Hifazat Ali son of Mahboob Khan
Jatoi, *through* Mr. Ashfaq
Hussain Abro, Advocate.

Respondents : P.O Sindh and others, *through*
Mr. Liaquat Ali Shar, Additional
Advocate General Sindh.

Date of Hearing : 01.09.2026.
Date of Order : 01.09.2026.

O R D E R

Ali Haider ‘Ada’, J.- The petitioner was initially appointed as Junior Clerk vide order dated 28.11.1992 and was subsequently promoted to the post of Senior Clerk vide order dated 25.10.2017. Thereafter, he was further promoted to the post of Assistant (BPS-16) vide order dated 31.05.2022, a position which he continued to hold. Being aggrieved by the seniority list, whereby, according to him, his juniors were promoted to the post of Superintendent, the petitioner has challenged the seniority list dated 31.12.2025 as illegal and unlawful.

2. Learned counsel for the petitioner has mainly assailed the impugned seniority list on the ground that the juniors to the petitioner have been promoted, whereas his appeal against the same is still pending before the Secretary, School Education and Literacy Department, Karachi. In support of his contention, learned counsel has drawn the attention of the Court to page 33 of the petition, where under a copy of the said appeal has been annexed. He has further submitted that correspondence has also been exchanged between the concerned functionaries regarding the pendency of the said appeal.

3. Heard. Record perused.

4. At the outset, it is the foremost duty of the Court to examine the legal status and character of the petitioner and to determine whether the grievance raised is barred by law or whether an efficacious remedy is available under the law. Where an adequate and efficacious statutory remedy is available to the aggrieved person, the Constitutional jurisdiction of this Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, ordinarily ought not to be invoked.

4. So far as the pendency of the appeal before the Department is concerned, the **Sindh Service Tribunals Act, 1973** provides a specific mechanism for redressal of such grievance. In this regard, the relevant provision of the said Act is reproduced hereunder:—

4. Appeals to Tribunals.- Any civil servant aggrieved by any final order, whether original or appellate, made by a departmental authority in respect of any of the terms and conditions of his service may, within thirty days of the communication of such order to him {or within twelve months of the establishment of a Tribunal whichever is latter} prefer an appeal to the Tribunal having jurisdiction in the matter.

Provided that-

(a) where an appeal, review or representation to a departmental authority is provided under the Sindh Civil Servants Act, 1973, or any rule, against any such order, no appeal shall lie to a Tribunal unless the aggrieved civil servant has preferred an appeal or application for review or representation to such departmental authority and a period of ninety days has elapsed from the date on which such appeal, application or representation was so preferred; and

(b) no appeal shall lie to a Tribunal against an order or a decision of a departmental authority determining the fitness or otherwise of a person, to be appointed to or hold a particular post or, to be promoted to a higher post or grade; and

(c) subject to the provisions of section 6, no appeal shall lie to a Tribunal against an order or decision

of a departmental authority made at any time before the 1st July, 1969.]

Explanation.- In this section, “departmental authority” means any authority, other than a Tribunal, which is competent to make an order in respect of any of the terms and conditions of civil servants.

5. The Honourable Apex Court, in the case of **Dr. Sayyid A.S. Pirzada v. Chief Secretary, Services and Administration Department and others, reported as 2023 SCMR 1087**, has held that where a departmental appeal, review or representation preferred by a civil servant is not decided within a period of 90 days, the aggrieved civil servant is not required to wait indefinitely for its decision. Upon expiry of the said period, he may approach the Service Tribunal directly by filing an appeal for redressal of his grievance.

6. It is, therefore, abundantly clear that an adequate and efficacious remedy is already available to the petitioner under the law; however, instead of availing such remedy, the petitioner has invoked the Constitutional jurisdiction of this Court. It is a settled principle of law that where an adequate and efficacious alternate remedy is available under the law, the Constitutional jurisdiction under Article 199 of the Constitution is ordinarily not to be invoked. Consequently, the instant constitutional petition is not maintainable. Reliance in this regard is placed upon the judgments reported as **Indus Trading and Contracting Company v. Collector of Customs (Preventive), Karachi and others (2016 SCMR 842)**; **President, All Pakistan Women Association, Peshawar Cantt. v. Muhammad Akbar Awan and others (2020 SCMR 260)**; **Commissioner Inland Revenue and others v. Jahangir Khan Tareen and others (2022 SCMR 92)**; and **Executive Director (P&GS), State Life, Principal Office Karachi and others v. Muhammad Nisar, Area**

Manager, State Life Corporation of Pakistan, Peshawar Zone (2025 SCMR 249).

7. In view of the foregoing facts and circumstances, the instant Constitution Petition, being misconceived and not maintainable, is hereby dismissed.

JUDGE

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