

IN THE HIGH COURT OF SINDH AT KARACHI

C.P. No.D-3755 of 2023

(Ghulam Abbas Soomro v. Province of Sindh and others)

Date

Order with signature of Judge(s)

Before:

Muhammad Karim Khan Agha, J.

Adnan-ul-Karim Memon, J.

Date of hearing and order: 03.09.2025

Mr. Ahmed Ali Ghumro, advocate for the petitioner.

Mr. Ali Safdar Depar, AAG.

ORDER

Muhammad Karim Khan Agha, J. Through this petition, the petitioner has sought the following relief:

Declare that the act of the respondents not considering the petitioner in Provincial Selection Board-II for the promotion from Executive Engineer BS-18 to the Post of BS-19, according to Rule, therefore, the act of the respondents is illegal, unlawful, politically influenced, and against the norms of justice.

Declare that the petitioner is at Sr. No.1 of the seniority list of Executive Engineer BS-18 B. Tech (Hons) qualified for promotion to the post of BS-19, but the respondents deprived the petitioner without lawful authority, as such, the act of the respondents is illegal, unlawful, politically motivated not sustainable under law.

Direct the respondents to consider the petitioner in Provincial Selection Board-II for the promotion in BS-19, as the petitioner qualified for the promotion in accordance with the Rule.

2. In this petition, a Sub-Engineer (BPS-11) appointed in 1986 and registered with the National Technology Council in 2021, seeks promotion to the engineering post of BS-19. He was promoted to Assistant Engineer (BPS-17) in 1998 and then to Executive Engineer (BS-18) in 2015 based on seniority. Despite being eligible for promotion to Superintending Engineer (BS-19) based on his service length and the Service Rules of 1985, the petitioner has not been considered by the Provincial Selection Board-II. He submits that, according to a Higher Education Commission (HEC) notification from 2021, his B.Tech Hons BSC degree should be considered equivalent to a BSc Engineering/BE Engineering degree for promotion purposes.

3. The petitioner's counsel argued that his client, an Executive Engineer (BS-18), has been unfairly denied a promotion to Superintending Engineer (BS-19). The petitioner was promoted in 2015, yet his juniors, promoted in 2016, are now being considered for the higher position. The counsel contends that this denial is based on political influence and discrimination against those with a B.Tech (Hons) degree in favor of those with a B.E. degree, which he claims is a violation of Article 25 of the Constitution. He further stated that despite the petitioner being at the top of the seniority list and having served for 37 years, his name was excluded from the

promotion panel, which listed only B.E. degree holders. The counsel concluded by asking for the petition to be allowed.

4. The Assistant Advocate General Sindh argued against the petitioner's promotion, stating that he is ineligible for the Superintending Engineer (BS-19) position according to the Service Rules of 1991. The AAG claims that the promotion criteria require a B.E. degree, whereas the petitioner holds a B.Tech (Hons) degree. Citing an Advocate General Sindh letter from 2019, he further contended that individuals not registered as professional engineers under the PEC Act (Pakistan Engineering Council Act) cannot perform professional engineering work in terms of the decision of the Supreme Court in the *Mola Bux Shaikh case* reported in **2018 SCMR 2098**. He concluded by requesting the dismissal of the petition.

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

6. It is now settled that B.Tech (Hons) and B.E. / B.Sc. Engineering degrees are not equivalent as per the criteria set forth by the Engineering Council. They are considered two distinct academic disciplines within the broader field of engineering and technology. The Pakistan Engineering Council (PEC) does not register B.Tech graduates as "engineers" under the Pakistan Engineering Council Act, 1976, which regulates the engineering profession. Despite not being equivalent, it is noted that the Higher Education Commission (HEC) and government policy letters have in the past treated B.Tech (Hons) at par with B.E. / B.Sc. Engineering for pay, grades, and promotion within their respective cadres. This means that if a promotional post does not require "professional engineering work" as defined by the PEC Act, a B.Tech (Hons) holder may be considered eligible if their departmental service rules allow it. The final authority on promotion criteria rests with the government department's service rules. However, the courts have affirmed that the government has the right to set the required qualifications for a post. If the promotion rules for a specific position (like Superintending Engineer) mandate a B.E. or B.Sc. an engineering degree, then a B.Tech (Hons) holder may not be eligible, regardless of any general HEC notification.

7. Basically, a crucial distinction is made between "engineering work" and "professional engineering work." The PEC Act primarily governs the latter. If the duties of a Superintending Engineer are classified as "professional engineering work," then according to Supreme court rulings and the PEC Act, only a PEC-registered professional engineer (which a B.Tech holder is not) can legally hold that position. The supreme court has issued a strong caution against allowing non-registered individuals to perform such professional engineering work.

8. However, in the present case, the petitioner's entitlement for promotion to Superintending Engineer (BS-19) hinges on two key factors: the specific Service Rules for that position and whether the post is defined as requiring "professional engineering work" under the PEC Act, 1976. If it is, then based on the current legal

framework and Supreme Court judgment, which under review as per learned counsel for the parties, the petitioner, as a B.Tech holder, is prima facie, not entitled to the promotion in terms of law laid down by the supreme court in the case of Moula Bux Shaikh and others v. Chief Minister Sindh and others, **2018 SCMR 2098**.

9. This petition is misconceived and is dismissed accordingly.

Head of Const. Benches

Judge

Shafi